



City of San Diego
Development Services
1222 First Ave. 3rd Floor
San Diego, CA 92101
(619) 446-5210

Development Permit/ Environmental Determination Appeal Application

FORM
DS-3031
MARCH 2007

See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

1. Type of Appeal:

- ☐ Process Two Decision - Appeal to Planning Commission
☒ Process Three Decision - Appeal to Planning Commission
☐ Process Four Decision - Appeal to City Council
- ☐ Environmental Determination - Appeal to City Council
☐ Appeal of a Hearing Officer Decision to revoke a permit

2. Appellant Please check one ☒ Applicant ☐ Officially recognized Planning Committee ☐ "Interested Person" (Per M.C. Sec. 113.0103)

Name
Robert Jystad, Channel Law Group, LLP on behalf of applicant American Tower Corporation

Address City State Zip Code Telephone
100 Oceangate, Suite 1400 Long Beach CA 90802 (310) 209-8515

3. Applicant Name (As shown on the Permit/Approval being appealed). Complete if different from appellant.

Doug Kearney, American Tower Corporation

4. Project Information

Permit/Environmental Determination & Permit/Document No.:	Date of Decision/Determination:	City Project Manager:
CUP No. 94-0330-12	April 4, 2007	Karen Lynch Ashcraft

Decision (describe the permit/approval decision):

Deny Conditional Use Permit No. 357727 (Mini Storage - PTS No. 107501)

5. Grounds for Appeal (Please check all that apply)

- ☒ Factual Error (Process Three and Four decisions only)
☐ Conflict with other matters (Process Three and Four decisions only)
☒ Findings Not Supported (Process Three and Four decisions only)
- ☐ New Information (Process Three and Four decisions only)
☐ City-wide Significance (Process Four decisions only)

Description of Grounds for Appeal (Please relate your description to the allowable reasons for appeal as more fully described in Chapter 11, Article 2, Division 5 of the San Diego Municipal Code. Attach additional sheets if necessary.)

Hearing Officer made findings 1 and 2 in the affirmative but denied permit on grounds that he could not make findings 3 and

4 because the project does not comply to maximum extent feasible with Land Development Code.

This determination is based on the unsupported assertion that the City imposed 10 year time limits in order to require

replacement of existing facilities and that carriers should have designed their networks to accommodate the removal or

replacement of these facilities. Evidence in the record contradicts staff's assertion and the hearing officer did not properly

take such evidence into account. Applicant had reasonable expectation of renewal of its permits subject to compliance with

conditions and applicants' tenant relied on those expectations in the construction of their networks.

Applicant reserves right to supplement these grounds for appeal.

6. Appellant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.

Signature:

Date:

April 11, 2007

Note: Faxed appeals are not accepted. Appeal fees are non-refundable.

000218

ATTACHMENT E-11



City of San Diego
Development Services
1222 First Ave., MS-302
San Diego, CA 92101
(619) 446-5000

Ownership Disclosure Statement

Approval Type: Check appropriate box for type of approval (s) requested: ☐ Neighborhood Use Permit ☐ Coastal Development Permit
☐ Neighborhood Development Permit ☐ Site Development Permit ☐ Planned Development Permit ☐ Conditional Use Permit
☐ Variance ☐ Tentative Map ☐ Vesting Tentative Map ☐ Map Waiver ☐ Land Use Plan Amendment ☒ Other

Project Title

Project No. For City Use Only

American Tower Wireless Telecommunications Facility Site 300611 Midtown Minni Storag (Mini Storage)

Project Address:

1529 38th Street AKA 3808 Cedar Street, San Diego, CA 92105

Part I - To be completed when property is held by Individual(s)

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property, with the intent to record an encumbrance against the property. Please list below the owner(s) and tenant(s) (if applicable) of the above referenced property. The list must include the names and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all individuals who own the property). A signature is required of at least one of the property owners. Attach additional pages if needed. A signature from the Assistant Executive Director of the San Diego Redevelopment Agency shall be required for all project parcels for which a Disposition and Development Agreement (DDA) has been approved / executed by the City Council. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Additional pages attached ☐ Yes ☒ No

Name of Individual (type or print):

Lance D. Alworth

☒ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

990 Highland Drive, Suite 300

City/State/Zip:

Solana Beach, CA 92075

Phone No:

858-259-9000

Fax No:

Signature :

Date:

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature :

Date:

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature :

Date:

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature :

Date:

000219

ATTACHMENT E-11

Midtown Mini Storage

Project Title:

American Tower Wireless Telecommunications Facility Site 300611 Midtown Minni Stor

Project No. (For City Use Only)

Part II - To be completed when property is held by a corporation or partnership

Legal Status (please check):

☐ Corporation (☐ Limited Liability -or- ☐ General) What State? CA Tax Corporate Identification No. 95-3664073
☒ Partnership

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property with the intent to record an encumbrance against the property. Please list below the names, titles and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all corporate officers, and all partners in a partnership who own the property). A signature is required of at least one of the corporate officers or partners who own the property. Attach additional pages if needed. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process. Additional pages attached ☐ Yes ☐ No

Corporate/Partnership Name (type or print):

Midtown Mini Storage, LTD
☒ Owner ☐ Tenant/Lessee

Street Address:
990 Highland Drive, Suite 300

City/State/Zip:
Solana Beach, CA 92075

Phone No: 858-259-9000 Fax No:

Name of Corporate Officer/Partner (type or print):

Lance D. Alworth

Title (type or print):

General Partner

Signature :  Date: 4/12/06

Corporate/Partnership Name (type or print):

☐ Owner ☐ Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature : Date:

Corporate/Partnership Name (type or print):

☐ Owner ☐ Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature : Date:

Corporate/Partnership Name (type or print):

☐ Owner ☐ Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature : Date:

Corporate/Partnership Name (type or print):

☐ Owner ☐ Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature : Date:

Corporate/Partnership Name (type or print):

☐ Owner ☐ Tenant/Lessee

Street Address:

City/State/Zip:

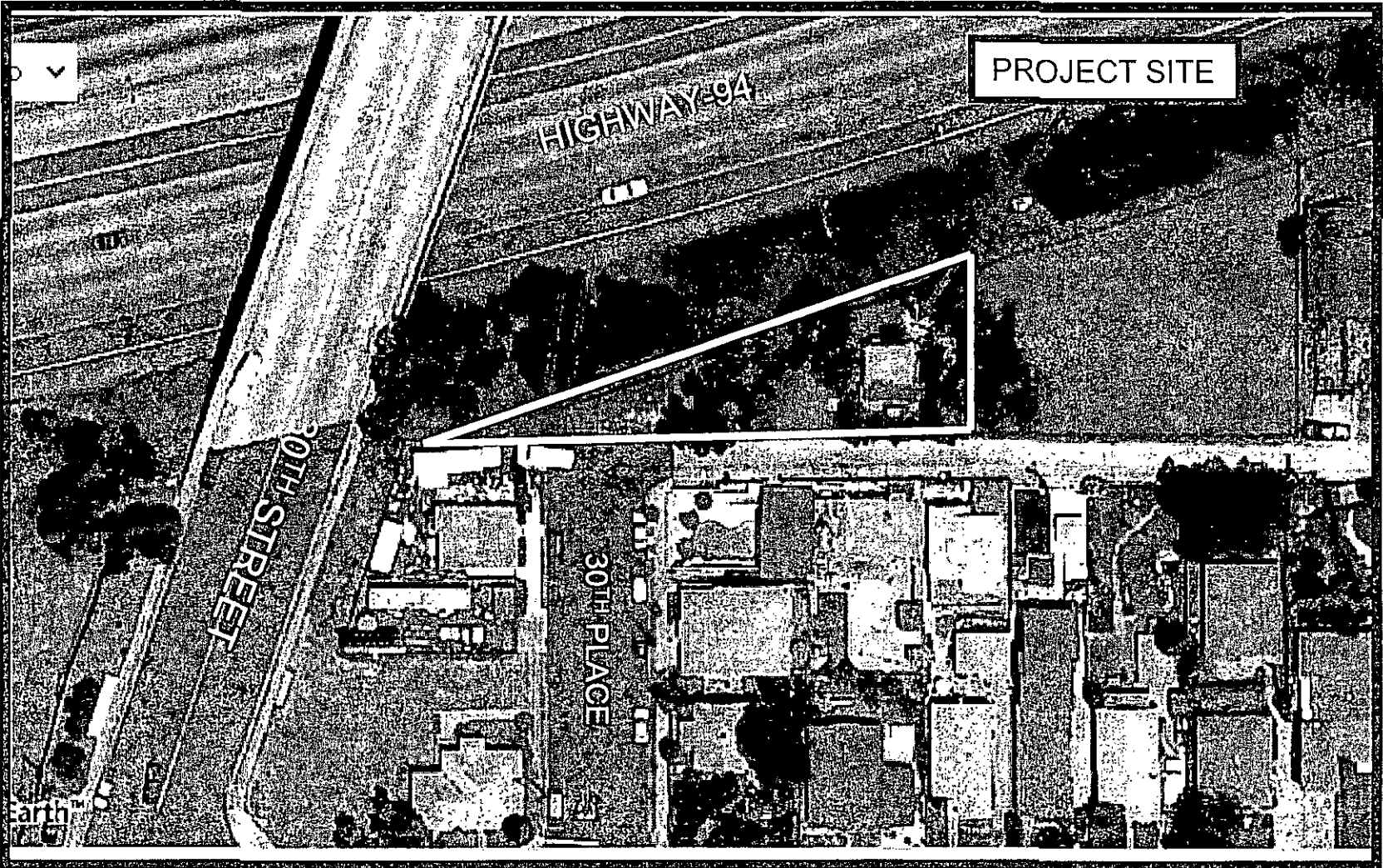
Phone No: Fax No:

Name of Corporate Officer/Partner (type or print):

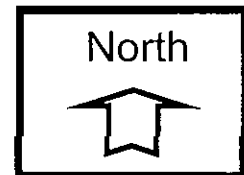
Title (type or print):

Signature : Date:

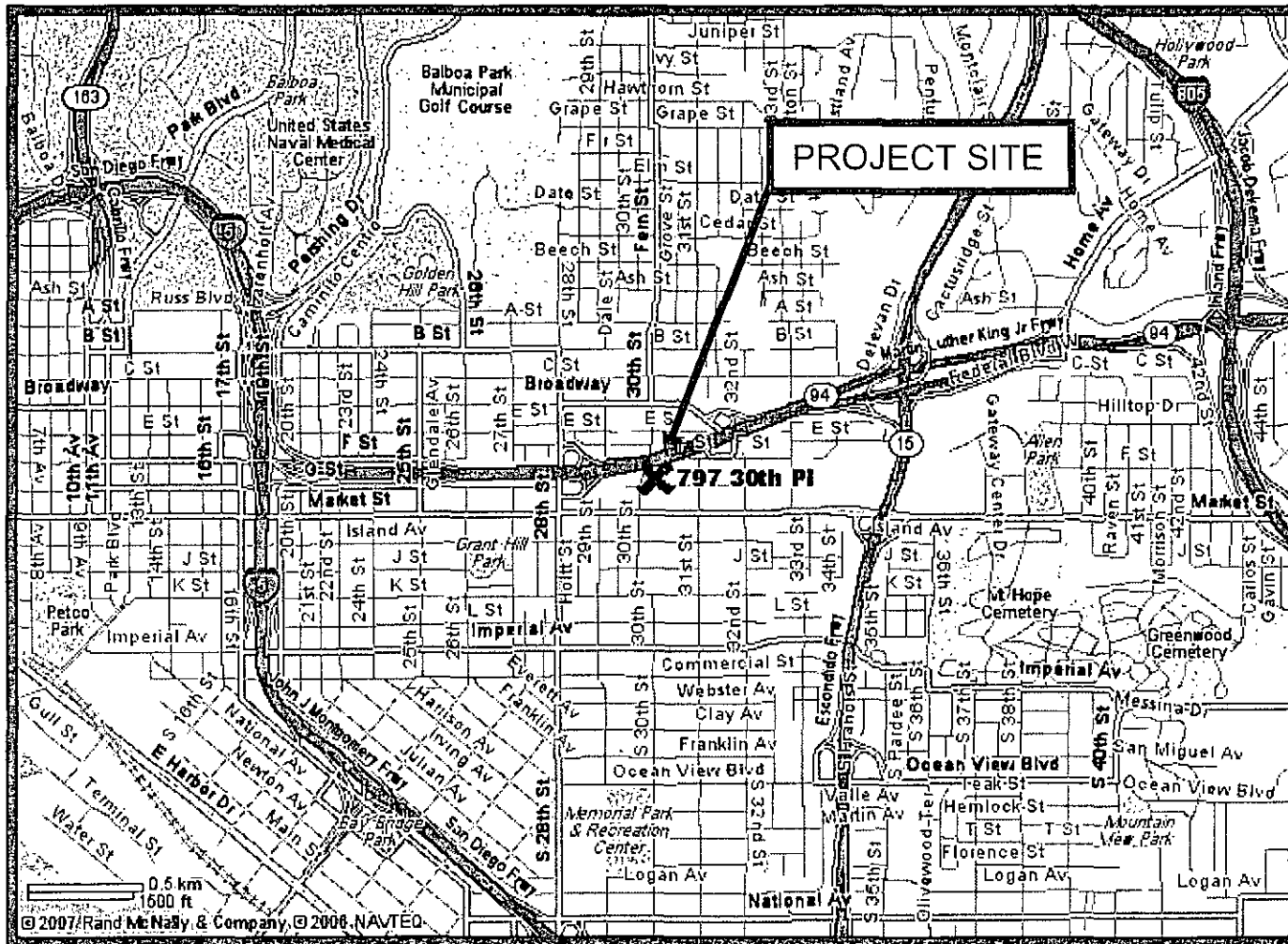
American Tower
Corporation – 30th Place
(CUP/PDP)
Verizon
Project No. 92067



Aerial Photo
AMERICAN TOWER – 30TH PLACE – PROJECT NUMBER 92067
797 30TH PLACE



000224



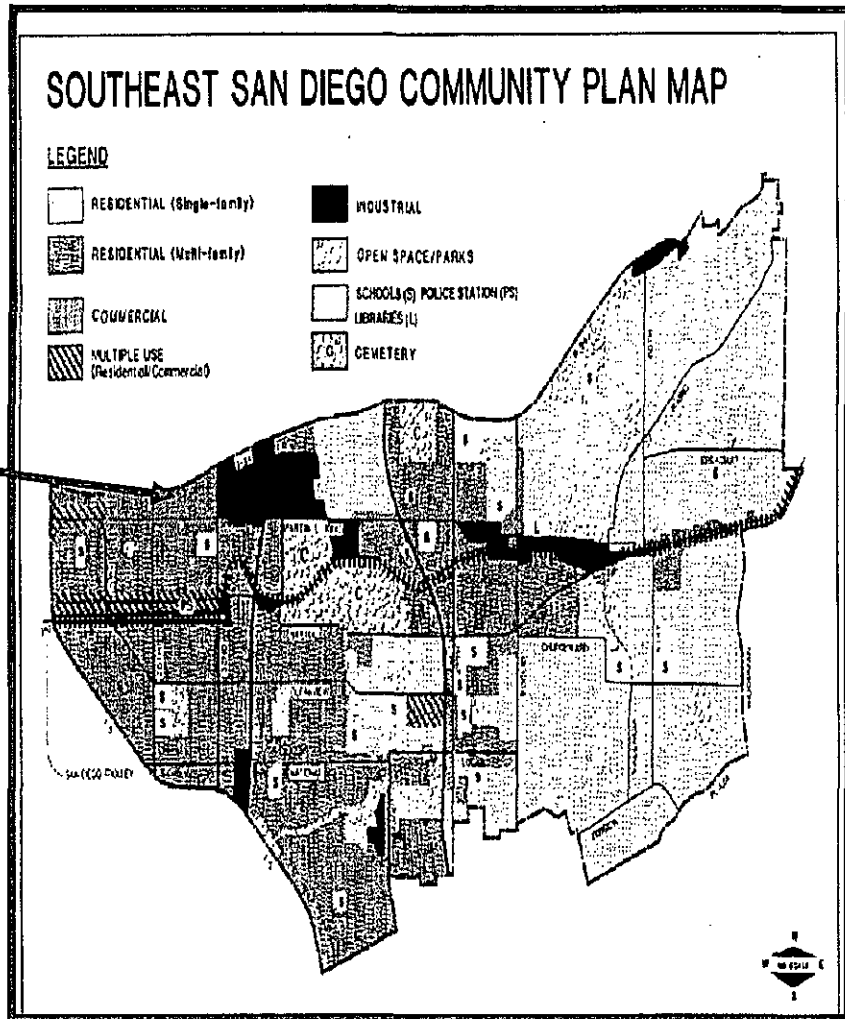
Project Location Map

AMERICAN TOWER – 30TH PLACE – PROJECT NUMBER 92067
797 30TH PLACE



ATTACHMENT F-2

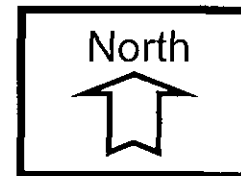
PROJECT SITE



SOUTHEASTERN SAN DIEGO COMMUNITY PLAN MAP

AMERICAN TOWER – 30TH PLACE – PROJECT NUMBER 92067

797 1/3 30TH PLACE



PROJECT DATA SHEET

PROJECT NAME:	American Tower – 30 th Place	
PROJECT DESCRIPTION:	A wireless communication facility consisting of an existing 130 foot high monopole and a 500 square foot equipment shelter.	
COMMUNITY PLAN AREA:	Southeast San Diego	
DISCRETIONARY ACTIONS:	Conditional Use Permit, Planned Development Permit	
COMMUNITY PLAN LAND USE DESIGNATION:	Residential (Allows residential development of 10-15 dwelling units per acre).	
<u>ZONING INFORMATION:</u> ZONE: MF-3000; (A multi-unit residential zone that permits 14.52 dwelling unit per acre) HEIGHT LIMIT: 30-Foot maximum height limit. FRONT SETBACK: 10 feet. SIDE SETBACK: 5 feet. REAR SETBACK: 5 feet.		
<u>ADJACENT PROPERTIES:</u>	LAND USE DESIGNATION & ZONE	EXISTING LAND USE
NORTH:	Highway-94	Highway-94
SOUTH:	Residential 10-15 du/ac; MF-3000.	Single Unit Residential
EAST:	Residential 10-15 du/ac; MF-3000.	Vacant
WEST:	Residential 10-15 du/ac; MF-3000.	Single Unit Residential
DEVIATIONS OR VARIANCES REQUESTED:	Deviation to allow a 130 foot high monopole within a 30 foot height limit.	
COMMUNITY PLANNING GROUP RECOMMENDATION:	On March 27, 2006, ATC met with the Technical Subcommittee of the Southeastern San Diego Planning Committee. They requested additional information on landscape and replacement of the chain link fence. ATC has not yet presented the project to the Southeastern San Diego Planning Committee.	



SITE NAME: CA 0037 30TH PLACE / ATC 300618 **CUP AND PDP APPLICATION**

DRAWING INDEX

1-1 TITLE SHEET
 A-1 SITE PLAN
 A-2 ENLARGED SITE PLAN
 A-3 EXTERIOR ELEVATIONS
 A-4 EXTERIOR ELEVATIONS
 L-1 LANDSCAPE DRAWING
 S-1 SURVEY FOR REFERENCE ONLY

REV.

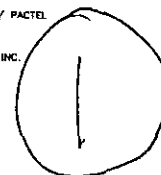
A
 A
 A
 A
 A
 A
 A

VICINITY MAP

N.T.S.

PROJECT INFORMATION

SITE ADDRESS: 700 30TH PLACE
 SAN DIEGO, CA 92102
PROPERTY OWNER: VERIZON
 FORMERLY AIR TOUCH CELLULAR / PACTEL
APPLICANT: AMERICAN TOWER CORPORATION, INC.
 2201 DUPONT DR., # 340
 IRVINE, CA 92612
 TEL: (949) 442-6400
APPLICANT CONTACT: DOUGLAS KEARNEY
 ZONING SPECIALIST
 TEL: (949) 442-6400

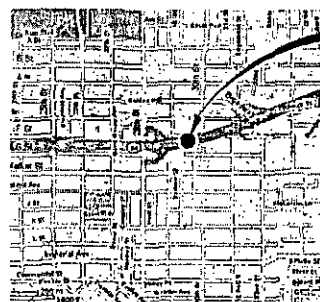


LEGAL DESCRIPTION

LOT 2, HILL TOP SUBDIVISION, IN THE CITY OF SAN DIEGO, ACCORDING TO MAP THEREOF NO. 5957,
 HELD IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, MARCH 8, 1984

DEVELOPMENT SUMMARY

AMERICAN TOWER CORPORATION IS REQUESTING APPROVAL FOR THE FOLLOWING PROJECT:
 CONDITIONAL USE PERMIT (CUP) AND PLANNED DEVELOPMENT PERMIT (PDP)
 THE PROJECT REQUIRES THE RENEWAL OF EXPIRED CUP NO. 84-0489 ISSUED BY THE CITY OF SAN DIEGO FOR A
 WIRELESS TELECOMMUNICATIONS FACILITY. THIS APPLICATION REQUESTS THE CONTINUED OPERATION AND
 MAINTENANCE OF THE VERIZON WIRELESS FACILITY LOCATED AT 700 30TH PLACE. THE FACILITY (AS IT PRESENTLY
 EXISTS) CONSISTS OF A 300 SQUARE FOOT UNMANNED EQUIPMENT BUILDING WITH FIFTEEN (15) PANEL ANTENNAS,
 ONE (1) EIGHT FOOT LONG OMNI-DIRECTIONAL WHIP-TYPE ANTENNA, THREE (3) 4 FOOT DIAMETER MICROWAVE
 DISHES AND FIVE (5) 3 FOOT DIAMETER MICROWAVE DISHES MOUNTED ONTO A 130 FOOT TALL STEEL MONOPOLE
 STRUCTURE. AMERICAN TOWER IS REQUESTING THE CUP AND PDP IN ORDER TO ALLOW VERIZON WIRELESS AND
 ITS CUSTOMERS UNINTERRUPTED WIRELESS TELEPHONE SERVICE, ALSO THERE IS ON SITE AN EMERGENCY
 ELECTRICAL GENERATOR.



SITE

JURISDICTION: CITY OF SAN DIEGO
OCCUPANCY: U-1
APN NUMBER: 545-031-33
CURRENT USE: UNMANNED TELECOMMUNICATIONS FACILITY
PROPOSED USE: UNMANNED TELECOMMUNICATIONS FACILITY
ZONING: CC COMMUNITY COMMERCIAL
SETBACK NOTE: CURRENT ZONING FOR THIS PROPERTY IS A FOLLOWS:
 APN 545-031-31 ZONE R-2 SETBACKS: FRONT: 15', SIDE & REAR: 4'
 APN 545-031-33 ZONE CC SETBACKS: FRONT: 0', SIDE: 4' & REAR: 15'

SITE QUALIFICATION PARTICIPANTS

NAME	COMPANY	NUMBER
ARCHITECT	JORGE BASILIO, AIA	BASILIO ASSOCIATES, INC. (949) 727-4200
ZONING:	DOUG KEARNEY	AMERICAN TOWER CORPORATION (949)-442-6402



SITE: 300618
ID: CA 0037
700 30TH PLACE
SAN DIEGO, CA 91914

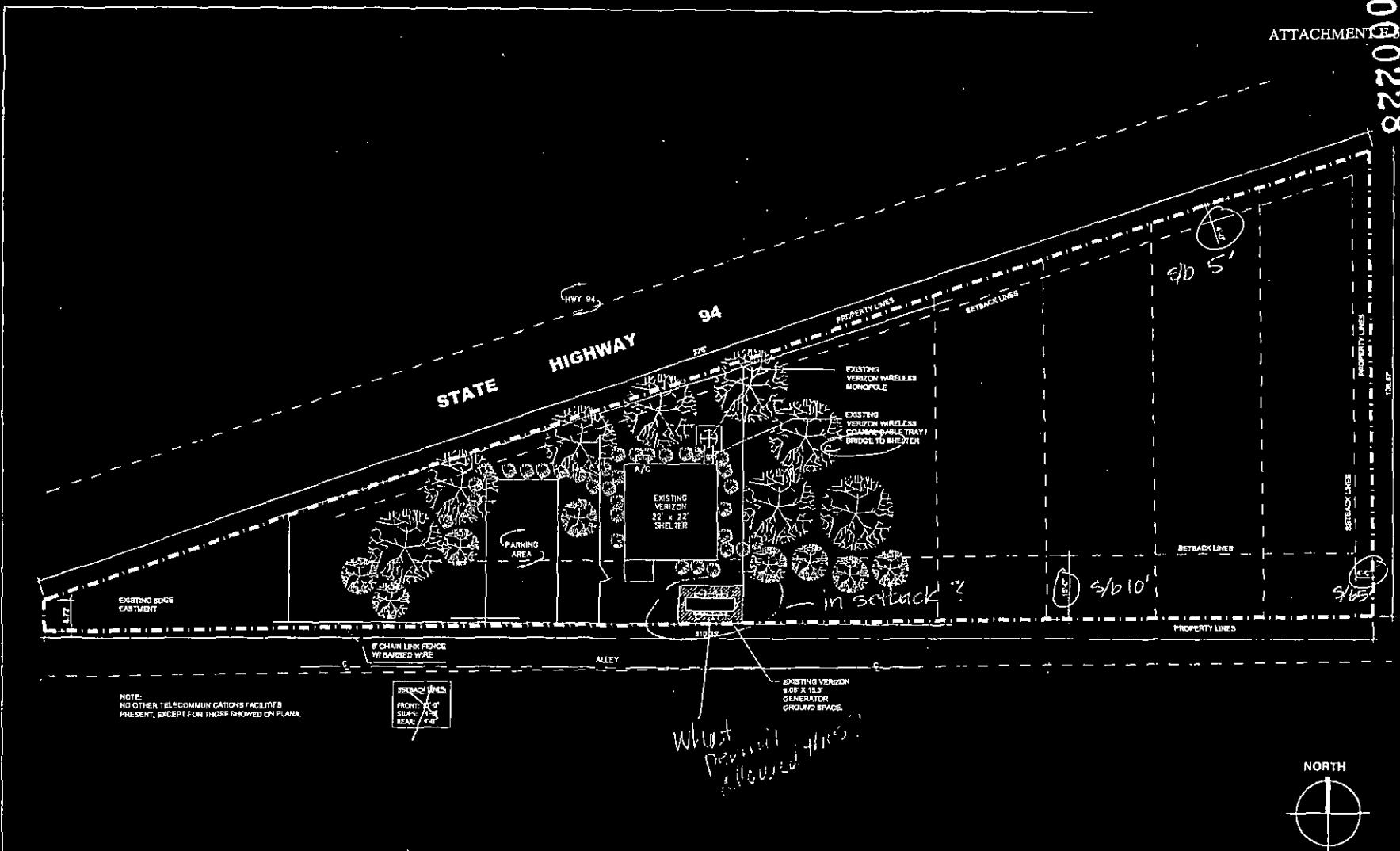
NO.	DATE	REVISIONS	BY	CHK.	APP'D
1	12-19-05	ISSUED FOR CUP APPLICATION	J	A	J
2					
3					
4					
5					
6					
7					
8					
9					
10					

TITLE SHEET

PROJECT NUMBER **DRAWING NUMBER**

T-1

21 MAY 06



NOTE:
NO OTHER TELECOMMUNICATIONS FACILITIES
PRESENT, EXCEPT FOR THOSE SHOWN ON PLANS.

FRONT: 10' 0"
SIDE: 10' 0"
REAR: 10' 0"

What
Permit
allowed this?

SITE PLAN



Basilio Associates, Inc.
Architects + Planning + Design
12 JEFFERSON BLVD. SUITE 200
SAN DIEGO, CA 92101

SITE: 300618
ID: CA 0037
790 30TH PLACE
SAN DIEGO, CA 92114

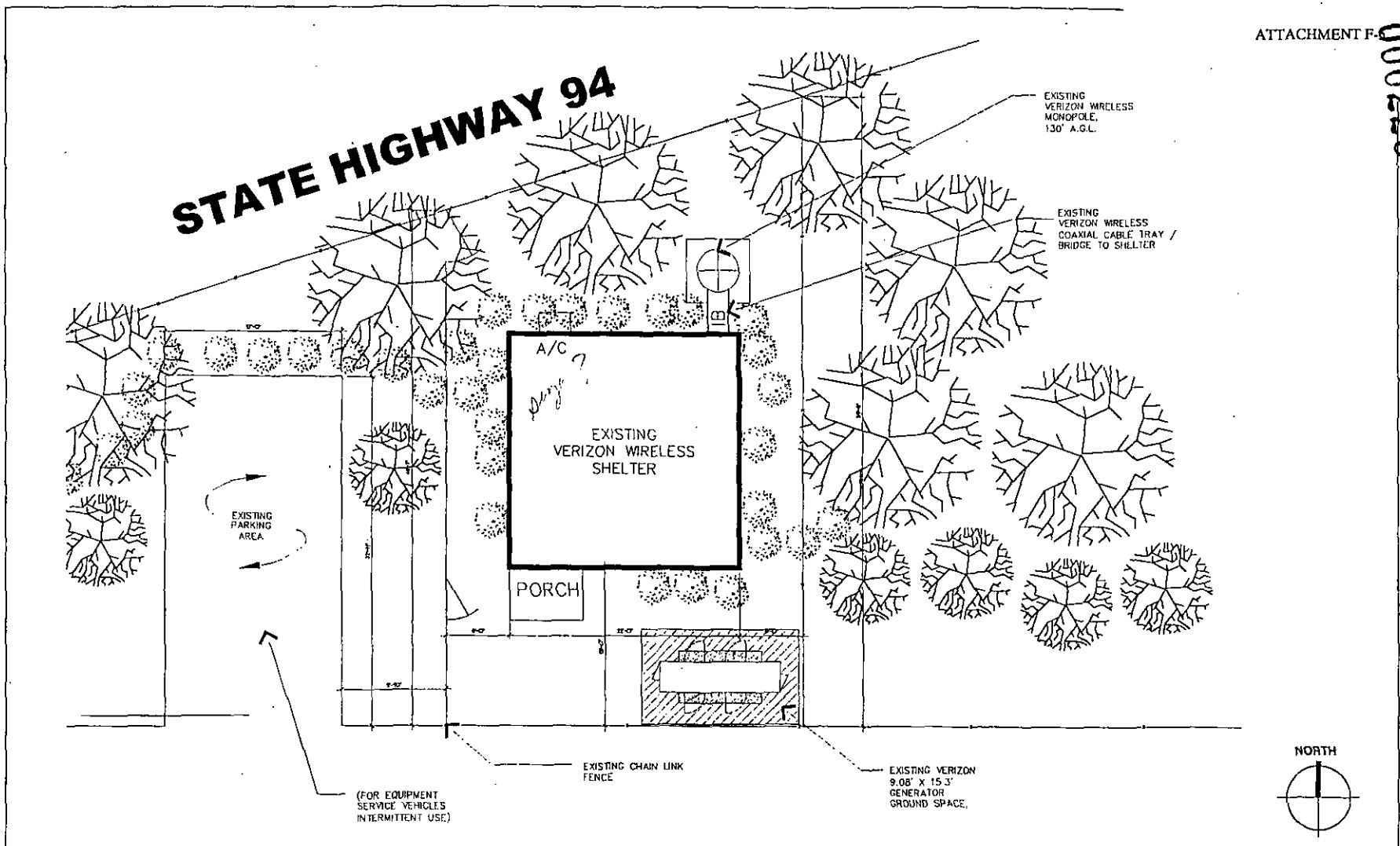
DATE	REVISIONS	BY	CHK	APP
04/11/11	1	CH	CH	CH
04/11/11	2	CH	CH	CH
04/11/11	3	CH	CH	CH
04/11/11	4	CH	CH	CH
04/11/11	5	CH	CH	CH
04/11/11	6	CH	CH	CH
04/11/11	7	CH	CH	CH
04/11/11	8	CH	CH	CH
04/11/11	9	CH	CH	CH
04/11/11	10	CH	CH	CH

SCALE: 1" = 10' 0"

SITE PLAN

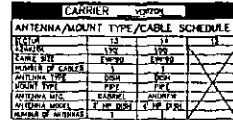
PROJECT NUMBER: 300618
DRAWING NUMBER: A-1

DATE: 04/11/11



ENLARGED SITE PLAN		SCALE: 1" = 10'													
	Bastio Associates, Inc. Architecture + Planning + Design 12 JAVIERA, SUITE 100, SAN DIEGO, CA 92108 PHONE: 619.594.1100 FAX: 619.594.1101	SITE: 300618 ID: CA 0037 700 30TH PLACE SAN DIEGO, CA 91914													
		<table border="1"> <tr> <td>NO.</td> <td>DATE</td> <td>REVISIONS</td> <td>BY</td> <td>CHK.</td> <td>APP'D.</td> </tr> <tr> <td>1</td> <td>12-19-08</td> <td>ISSUED FOR CUP APPLICATION</td> <td></td> <td></td> <td></td> </tr> </table>		NO.	DATE	REVISIONS	BY	CHK.	APP'D.	1	12-19-08	ISSUED FOR CUP APPLICATION			
		NO.	DATE	REVISIONS	BY	CHK.	APP'D.								
		1	12-19-08	ISSUED FOR CUP APPLICATION											
PROJECT NUMBER: _____															
DRAWING NUMBER: A-2															

11/14/08



SCALE:
1/8 inch = 1 ft

WEST ELEVATION

14 April 1979

1



**SITE: 300618
ID: CA 0037
700 30TH PLACE
SAN DIEGO, CA 91914**

A 12-10-05		ISSUED FOR CUR APPLICATION				
NO	DATE	REVISIONS		BY	CHK	APP'D
SCALE:	AS SHOWN	DESIGNED:	BY	DRAWN:	JB	

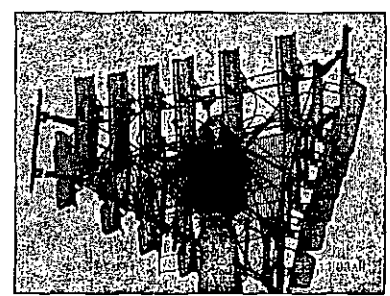
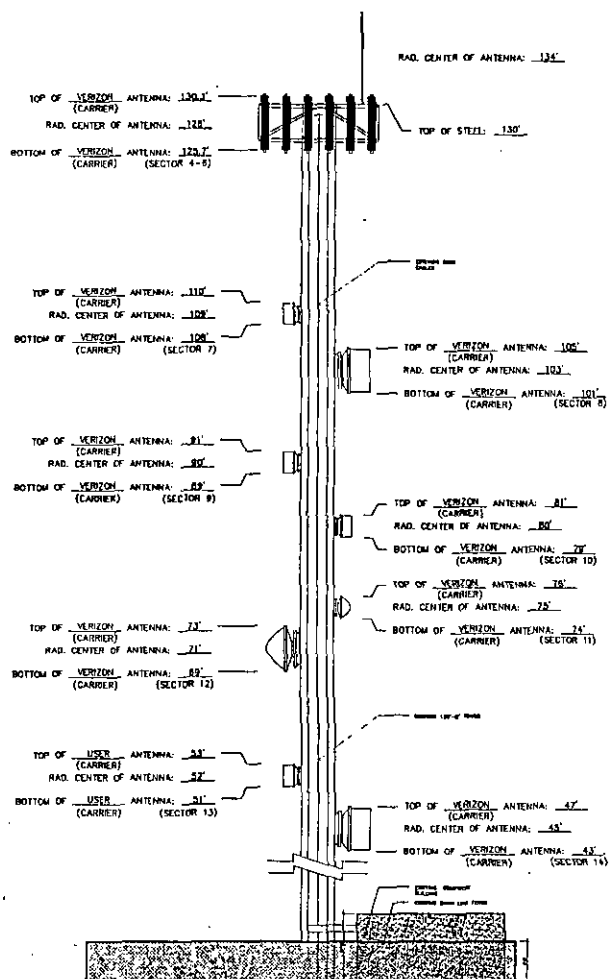
EXTERIOR ELEVATIONS

PROPERTY NUMBER

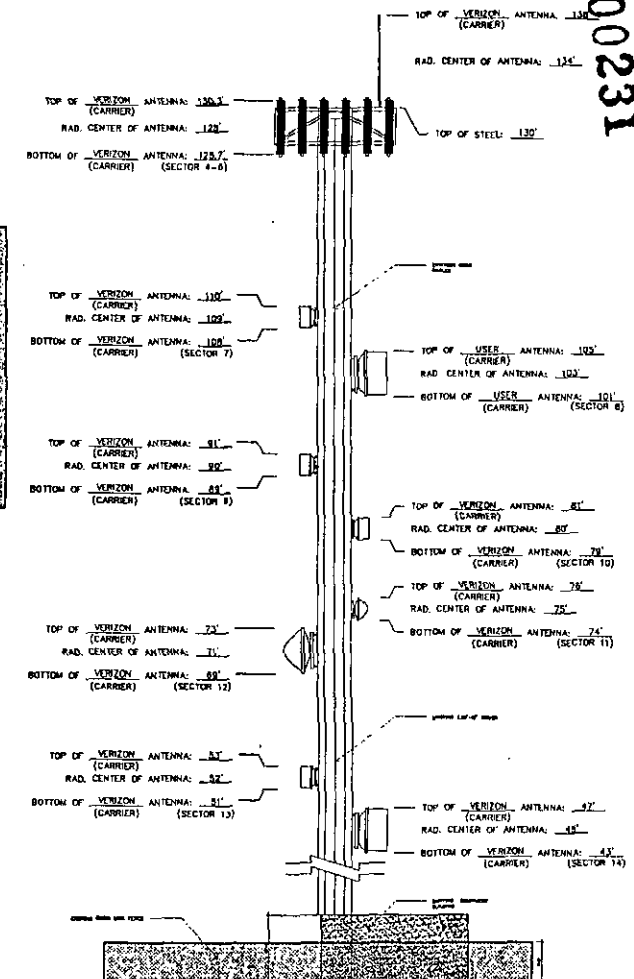
A-3

ZIMT 50

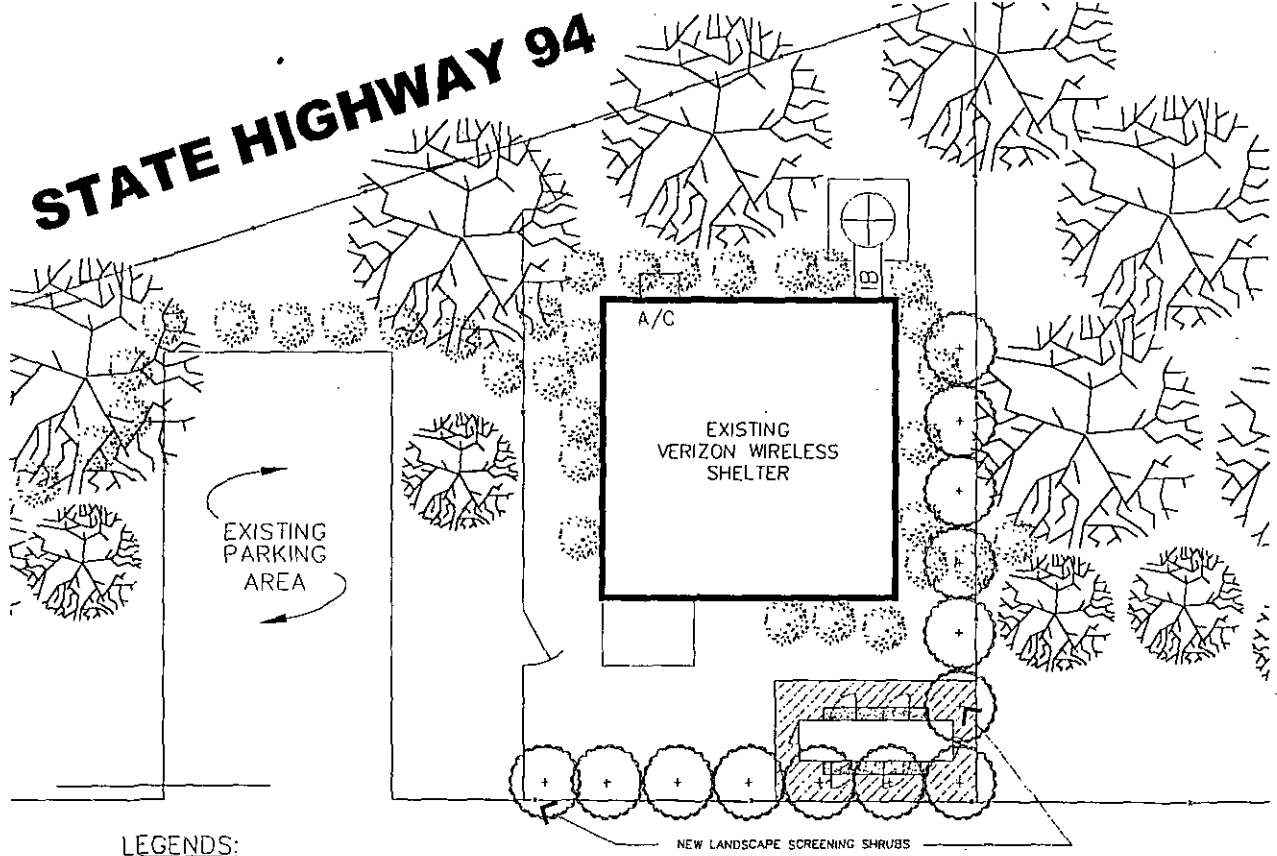
000231



(E) ANTENNA MOUNTING



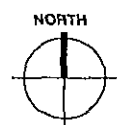
NORTH ELEVATION		SCALE: 1/8" = 1'-0"	2	EAST ELEVATION		SCALE: 1/8" = 1'-0"	1
				SITE: 300618 ID: CA 0037 700 30TH PLACE SAN DIEGO, CA 92194		EXTERIOR ELEVATIONS	
Basilio Associates, Inc. Architects + Planning + Design 1515 AVENUE 15, SUITE 100, SAN DIEGO, CA 92161 PHONE: 619-594-1000 FAX: 619-594-1001		A 12-18-08 CHECKED FOR CLIP APPLICATION		NO. DATE REVISIONS BY ENR APPD		PROJECT NUMBER: A-4	
SCALE: AS SHOWN		DESIGNED: DRG:		SCALE: AS SHOWN		DESIGNED: DRG:	



LEGENDS:

- 13 CUPRESSUS SEMPERVIRENS (ITALIAN CYPRESS)
- 15 GALLONS

IRRIGATION NOTES:
HAND WATER WITH WATERING TRUCK
FOR FIRST YEAR UNTIL ESTABLISHED



ENLARGED SITE PLAN



Basilio Associates, Inc.
Architecture + Planning + Design
12 JAVIERA, SUITE 100, PUEBLO, CO 81001
PH: 719.587.1234 FAX: 719.587.1235

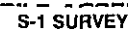
**SITE: 300618
ID: CA 0037
700 30TH PLACE
SAN DIEGO, CA 92114**

NO.	DATE	REVISIONS	BY	CHK	APP'D
1	12-18-05	DESIGN FOR CUP APPLICATION	J	J	J
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					

SCALE: 1" = 10' - 0"

LANDSCAPE PLAN

PROJECT NUMBER: 300618 DRAWING NUMBER: L-1



000235



000236

ATTACHMENT F-6



000237

PLANNING COMMISSION
RESOLUTION NO.
CONDITIONAL USE PERMIT NO. 296127
PLANNED DEVELOPMENT PERMIT NO. 453612
AMERICAN TOWER – 30TH PLACE
PROJECT NO. 92067

WHEREAS, Verizon Wireless (VAW) LLC dba Verizon Wireless, Owner and American Tower Corporation, Permittee, filed an application with the City of San Diego for a permit for a wireless communication facility (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Conditional Use Permit No. 296127 and Planned Development Permit No. 453612, on portions of an .19 acre site;

WHEREAS, the project site is located at 797 1/3 30th Place in the MF-3000 zone of the Southeastern San Diego Community Plan;

WHEREAS, the project site is legally described as Lot 2 of Hilltop Subdivision in the City of San Diego, according to map thereof No. 5357, filed in the Office of the County Recorder of San Diego County, March 6, 1964;

WHEREAS, on June 28, 2007, the Planning Commission of the City of San Diego considered Conditional Use Permit No. 296127 and Planned Development Permit No. 453612, pursuant to the Land Development Code of the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED by the Planning Commission of the City of San Diego as follows:

That the Planning Commission adopts the following written Findings, dated June 28, 2007.

FINDINGS:

Conditional Use Permit - Section 126.0305

1. The proposed development will not adversely affect the applicable land use plan;

This facility was originally approved by the City Council on November 20, 1984. The Conditional Use Permit (CUP) included a 20 year expiration. At the time of approval, the City did not have applicable regulations for these types of facilities so the City Council imposed a twenty year limit in order to re-evaluate the project in light of new regulations and or policies that may be in effect. The project exists as it did after initial construction and American Tower Corporation is now seeking to obtain another CUP to maintain the facility as is.

Neither the City of San Diego General Plan nor the Southeastern San Diego Community Plan addresses wireless communication facilities as a specific land use.

2. The proposed development will not be detrimental to the public health, safety, and welfare;

The Telecommunication Act of 1996 preempts local governments from regulating the “placement, construction and modification of wireless communication facilities on the basis of the environmental effects of Radio Frequency (RF) emission to the extent that such facilities comply with the Federal Communication Commission’s (FCC) standards for such emissions.” If the decision maker approves the existing facility, a condition will be included within the permit to require American Tower to perform a cumulative model RF test and submit the finding in a report to the City of San Diego within 90 days of approval of the CUP/PDP.

3. The proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code; and

This facility was originally approved by the City Council on November 20, 1984. The Conditional Use Permit (CUP) included a 20 year expiration. At the time of approval, the City did not have applicable regulations for these types of facilities so the City imposed a ten year time limit in order to re-evaluate the project in light of new regulations and or policies that may be in effect. The project exists as it did after initial construction and American Tower Corporation is now seeking to obtain another CUP to maintain the facility as is.

Since 2000, the City has had a Communication Antenna ordinance that requires architectural or environmental integration with the project site. Pursuant to the San Diego Land Development Code, wireless communication facilities are permitted in all zones citywide with the appropriate permits. Wireless communication facilities are separately regulated uses, which have limitations or require compliance with conditions in order to minimize potential impacts. The intent of the regulations is to camouflage facilities from public view. In this case, the monopole is the tallest structure in and around the area in which it is located and as such, it has an incongruous effect on the community’s landscape. It is situated prominently along Highway-94, which serves as a major east west transportation corridor and it poses an unsightly visual impact for commuters that utilize this corridor as well as for residents of the surrounding communities.

Section 141.0405 of the Land Development Code differentiates between minor and major telecommunication facilities. Minor telecommunication facilities include those that are concealed from public view or integrated into the architecture or surrounding environment through architectural enhancement (enhancements that complement the scale, texture, color and style) unique design solutions, or accessory use structures. Major telecommunication facilities are antenna facilities that do not meet the criteria for minor telecommunication facilities or they are located in residential zones containing residential uses. Similar to minor facilities, they also need to be designed to be minimally visible through the use of architecture, landscape architecture and siting solutions. The 30th Place project does not conform to this code requirement. As it exists, it is a significant visual impact along Highway-94, which serves as a major transportation corridor through the city. Many commuters pass through this section of the city on a daily basis and are subjected to the unsightliness associated with this project.

Therefore, the project does not comply to the maximum extent feasible with the regulations of the Land Development Code.

4. The proposed use is appropriate at the proposed location.

A wireless communication facility at this location is an appropriate use subject to compliance with the ordinances and policies that regulate these types of facilities. Due to the fact that the existing facility does not comply with current regulations and policies, this finding cannot be affirmed. A facility that better integrates into the property and takes into consideration the surroundings and the proximity to Highway-94 would be more appropriately located on this property.

Planned Development Permit - Section 126. 0604

1. The proposed development will not adversely affect the applicable land use plan;

This facility was originally approved by the City Council on November 20, 1984. The Conditional Use Permit (CUP) included a 20 year expiration. At the time of approval, the City did not have applicable regulations for these types of facilities so the City Council imposed a ten year limit in order to re-evaluate the project in light of new regulations and or policies that may be in effect. The project exists as it did after initial construction and the new owner, American Tower Corporation is now seeking to obtain another CUP to maintain the facility as is. Neither the City of San Diego General Plan nor the Southeastern San Diego Community Plan addresses wireless communication facilities as a specific land use.

2. The proposed development will not be detrimental to the public health, safety, and welfare; and

The Telecommunication Act of 1996 preempts local governments from regulating the "placement, construction and modification of wireless communication facilities on the basis of the environmental effects of Radio Frequency (RF) emission to the extent that such facilities comply with the Federal Communication Commission's (FCC) standards for such emissions." If the decision maker approves the existing facility, a condition will be included within the permit to require American Tower to perform a cumulative model RF test and submit the finding in a report to the City of San Diego within 90 days of approval of the CUP.

3. The proposed development will comply with the applicable regulations of the Land Development Code.

The monopole complies with all the development regulations of the MF-3000 zone except for the height limit of 30 feet. The monopole is 130 feet tall and is situated at a high point prominently alongside of Highway-94. Development in the area is low in scale and primarily residential in nature with commercial uses further away from the freeway. The existing tower exceeds the MF-3000 zone height limit by 100 feet. Deviations to the development regulations require a Planned Development Permit, which is a mechanism to encourage imaginative and innovative planning and to assure that the project achieves the purpose and intent of the applicable land use plan and that it would be preferable to what would be achieved by strict conformance with the regulations.

This project was originally constructed in the mid-1980's when Pac Tel Mobile (now Verizon) was only one of two wireless carriers in San Diego. Their network was being established with tower structures and branched out to building collocations later. Typically, carriers initially built tall facilities, later filling in their networks with lower sights. Verizon signed the contract (CUP84-0469) acknowledging the 20 year time limit on the facility. In order to maintain a facility at this site, a new application in compliance with the current regulations and policies would be required.

4. The proposed development, when considered as a whole, will be beneficial to the community; and

The monopole serves Verizon subscribers in the surrounding communities, as well as commuters passing through the area and as such, is a beneficial service. Conversely, the significant visual impacts that the pole creates are detrimental to the surrounding communities as well as to the City of San Diego. The pole sits on a hill at an elevation of 170 feet. The pole is 130 feet tall. Just .24 miles to the west, the elevation drops 30 feet. Approximately .19 miles to the east, the elevation drops 30 feet and .29 miles to the southeast, the elevation drops a dramatic 95 feet. The monopole is a negative visual community landmark that can be seen from miles away. The original design of this tower was developed 20 years ago when the technology was at its infancy. The CUP was conditioned to expire in 20 years and the owner and operator of the facility, Verizon and American Tower Corporation had the responsibility of making preparations within their network to comply with any new regulations or policies in effect, which would have included a required reduction in height as well as adjustments to other existing facilities and development of new facilities.

5. Any proposed deviations pursuant to Section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.

The applicant, American Tower Corporation, is requesting to deviate from the RS-1-7 height limitation of 30 feet. The existing tower is 130 feet tall and can be viewed from miles away. It sits on an elevated hill within the Southeastern San Diego community, prominently along side of Highway-94 and is a significant visual impact within San Diego. The project, as it exists, does not result in a visually desirable project. If redesigned to comply with the 30 foot height limit, Verizon services to the community and passing commuters would be significantly reduced. However, Verizon has the responsibility of exploring available alternatives that would address legal requirements as well as reduce the negative impact on their existing network. Section 141.0405 of the Land Development Code requires telecommunication facilities to integrate into the landscape in which they are proposed. If this facility were to be redesigned to comply with this section of the Code, a reasonable height deviation may be considered. The existing tower does not result in an acceptable project.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Conditional Use Permit No. 296127 and Planned Development Permit No. 453612 is hereby DENIED by the Planning Commission.

Karen Lynch-Ashcraft
Development Project Manager
Development Services

Adopted on: June 28, 2007

Job Order No. 42-5781

000242
ORIGINAL

1684

CONDITIONAL USE PERMIT

NO. 84-0469

CITY COUNCIL.

This Conditional Use Permit is granted by the City Council of The City of San Diego to PACTEL MOBILE ACCESS, a Delaware Corporation, Owner/Permittee, under the conditions in Section 101.0507 of the Municipal Code of The City of San Diego.

1. Permission is granted to Owner/Permittee to construct and operate a communication facility consisting of an equipment building and antenna tower located on the south side of State Highway 94 at 30th Place, more particularly described as Lot 2, Hilltop, Map 5357 and Lots 15 to 18, Block 97, E.W. Morse subdivision, Map 547, in the CC and R-3000 Zones.
2. The facility shall consist of the following:
 - a. A 26-foot by 22-foot equipment building and a 145-foot-high antenna tower for frequency reception and transmission. The color of the pole shall be cool medium-light grey;
 - b. Off-street parking for service personnel; and
 - c. Accessory uses as may be determined incidental and approved by the Planning Director.
3. Not less than two off-street parking spaces shall be maintained on the property in the approximate location shown on Exhibit "A," dated October 25, 1984, on file in the office of the Planning Department. Parking spaces shall be consistent with Division 8 of the Municipal Code and shall be permanently maintained and not converted for any other use. Parking spaces and aisles shall conform to Planning Department standards. Parking areas shall be marked.
4. No permit for construction of the expanded facility shall be granted nor shall any activity authorized by this permit be conducted on the premises until:
 - a. The Permittee signs and returns the amended permit to the Planning Department; and
 - b. The Conditional Use Permit is recorded in the office of the County Recorder.

RECEIVED
CITY OF SAN DIEGO
PLANNING DEPARTMENT
12/21/2005
1684

5. Before issuance of any building permits, complete building plans shall be submitted to the Planning Director for approval. Plans shall be in substantial conformity to Exhibit "A," dated October 25, 1984, on file in the office of the Planning Department. No change, modifications or alterations shall be made unless appropriate applications for amendment of this permit shall have been granted.

6. Before issuance of any building permits, a complete landscape plan, including a permanent irrigation system, shall be submitted to the Planning Director for approval. The plans shall be in substantial conformity to Exhibit "A," dated October 25, 1984, on file in the office of the Planning Department. Approved planting shall be installed before issuance of any occupancy permit on any building. Such planting shall not be modified or altered unless this permit has been amended. Specific plant species shall be identified on final landscaping plans and shall be subject to Planning Director approval.

7. All outdoor lighting shall be so shaded and adjusted that the light is directed to fall only on the same premises as light sources are located and not reflect onto adjacent properties.

8. This Conditional Use Permit must be used within 36 months after the date of City approval or the permit shall be void. An Extension of Time may be granted as set forth in Section 101.0506 and 101.0507 of the Municipal Code. Such extension of time shall be subject to all regulations in force at the time of the extension.

9. After establishment of the amended project, the property shall not be used for any other purposes unless:

- a. Authorized by the City Council; or
- b. The proposed use meets every requirement of the zone existing for the property at the time of conversion; or
- c. The permit has been revoked by the City.

10. This Conditional Use Permit may be revoked by the City if there is a material breach or default in any of the conditions of this permit.

11. This Conditional Use Permit is a covenant running with the lands and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out.

000244

12. This permit shall expire 20 years from the date of approval. If an extension is requested, the operation and conditions shall be reviewed at public hearings by the Planning Commission and City Council.

13. In the event that additional cellular mobile phone communication systems are needed in the future that would require a transmitting tower or towers in the vicinity of this approved facility, the permittee shall allow the installation of antennas on the tower authorized by this permit and the installation of necessary support equipment on the premises if the applicant for such additional antennae and support equipment shows that the operation thereof would not interfere with the operation of the permittee's antennae and support equipment and the co-location of such antennae and support equipment are otherwise technically feasible and compatible, and such additional antennae and support equipment are approved by The City of San Diego following a noticed public hearing on the matter.

14. The existing billboards shall be removed no later than October 1986 from the site.

ADOPTED BY THE COUNCIL OF THE CITY OF SAN DIEGO ON NOVEMBER 20, 1984.

000245

AUTHENTICATED BY:

Roger Hedgecock
 Roger Hedgecock
 Mayor of The City of San Diego

Spencer A. Delmon
 City Clerk of The City of San Diego

STATE OF CALIFORNIA)
)
 COUNTY OF SAN DIEGO)

On this 13 day of February 1985, before me, the undersigned, a notary public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared ROGER HEDGECOCK, known to me to be the Mayor, and CHARLES G. ABDELNOUR, known to me to be the City Clerk of The City of San Diego, the municipal corporation that executed the within instrument, and known to me to be the persons who executed the within instrument on behalf of the municipal corporation therein named, and acknowledged to me that such municipal corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal in the County of San Diego, State of California, the day and year in which certificate first above written.

Ruth E. Klauer
 RUTH E. KLAUER
 NOTARY PUBLIC - CALIFORNIA
 PRINCIPAL OFFICE IN
 SAN DIEGO COUNTY
 My Commission Expires May 23, 1985

Notary Public in and for the County
 of San Diego, State of California

The undersigned Permittee, by execution hereof, agrees to each and every condition of this Conditional Use Permit and promises to perform each and every obligation of Permittee hereunder.

PACTEL MOBIL ACCESS, INC.
 a Delaware corporation

By *[Signature]*

NOTE: NOTARY ACKNOWLEDGEMENTS MUST
 BE ATTACHED PER CIVIL CODE,
 SEC. 1180 et seq.

000246

ATTACHMENT F-8

CORPORATE ACKNOWLEDGMENT

1683

NO. 20

State of CaliforniaCounty of Orange

ss.

On this the 31st day of January 19 85, before me,Katherine A. Linn

the undersigned Notary Public, personally appeared

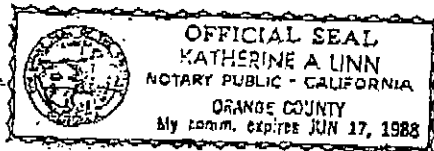
Donn A. Winslow☒ personally known to me☐ ~~proved to me on the basis of satisfactory evidence~~

to be the person(s) who executed the within instrument as

for on behalf of the corporation therein

named, and acknowledged to me that the corporation executed it.

WITNESS my hand and official seal.


Katherine A. Linn
 Notary's Signature

7120 122

Conditional Use Permit - 84-0469

NATIONAL NOTARY ASSOCIATION • 22012 Venture Blvd. • P.O. Box 4825 • Woodland Hills, CA 91364



000247

THE CITY OF SAN DIEGO

DATE OF NOTICE: June 14, 2007

NOTICE OF PUBLIC HEARING PLANNING COMMISSION

DATE OF HEARING: June 28, 2007
TIME OF HEARING: 9:00 A.M.
LOCATION OF HEARING: Council Chambers, 12th Floor, City Administration Building,
202 C Street, San Diego, California 92101

PROJECT TYPE: Conditional Use Permit/Planned Development Permit
PROJECT NUMBER: 92067
PROJECT NAME: AMERICAN TOWER – 30TH PLACE
APPLICANT: Jim Kelly, American Tower Corporation

COMMUNITY PLAN AREA: Southeastern San Diego
COUNCIL DISTRICT: District 8

CITY PROJECT MANAGER: Karen Lynch-Ashcraft, Development Project Manager
PHONE NUMBER: (619) 446-5351

As a property owner, tenant or person who has requested notice, you should know that the Planning Commission will hold a public hearing to approve, conditionally approve, or deny an application for a wireless communication facility consisting of an existing 130 foot high monopole and a 500 square foot equipment shelter, originally approved by CUP No. 84-0469, which expired on November 20, 2004. The facility is located at 797 1/3 30th Place between Highway-94 and G Street.

The decision of the Planning Commission is final unless the project is appealed to the City Council. In order to appeal the decision of the Planning Commission you must be present at the public hearing and file a speaker slip concerning the application or have expressed interest by writing to the Planning Commission before the close of the public hearing. To file an appeal, contact the City Clerk at 202 "C" Street, Second Floor. The appeal must be made within 10 working days of the Planning Commission decision. If you wish to challenge the City's action on the above proceedings in court, you may be limited to addressing only those issues you or someone else have raised at the public hearing described in this notice, or written in correspondence to the City at or before the public hearing.

This project was determined to be categorically exempt from the California Environmental Quality Act on January 23, 2006 and the opportunity to appeal that determination ended February 7, 2006.

If you have any questions after reviewing this information, you can contact the City Project Manager listed above.

This information will be made available in alternative formats upon request. To request an agenda in alternative format or to request a sign language or oral interpreter for the meeting, call the Disability Services Program Coordinator at 236-5979 at least five working days prior to the meeting to insure availability. Assistive Listening Devices (ALD's) are available for the meeting upon request.

Job Order No. 42-5781

Revised 02/08/07/hmd



City of San Diego
Development Services
1222 First Ave., MS-302
San Diego, CA 92101
(619) 446-5000

Ownership Disclosure Statement

Approval Type: Check appropriate box for type of approval (s) requested: ☐ Neighborhood Use Permit ☐ Coastal Development Permit
☐ Neighborhood Development Permit ☐ Site Development Permit ☒ Planned Development Permit ☐ Conditional Use Permit
☐ Variance ☐ Tentative Map ☐ Vesting Tentative Map ☐ Map Waiver ☐ Land Use Plan Amendment ☐ Other _____

Project Title

Project No. For City Use Only

EXISTING WIRELESS TELECOMMUNICATIONS FACILITY - 30TH PL.

Project Address:

700 30TH PL

APN 545-031-033 + 545-031-031

Part I - To be completed when property is held by individual(s)

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property, with the intent to record an encumbrance against the property. Please list below the owner(s) and tenant(s) (if applicable) of the above referenced property. The list must include the names and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all individuals who own the property). A signature is required of at least one of the property owners. Attach additional pages if needed. A signature from the Assistant Executive Director of the San Diego Redevelopment Agency shall be required for all project parcels for which a Disposition and Development Agreement (DDA) has been approved / executed by the City Council. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Additional pages attached ☐ Yes ☒ No

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature :

Date:

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature :

Date:

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature :

Date:

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No:

Fax No:

Signature :

Date:

000250

ATTACHMENT F-10

Project Title: <u>EXISTING WIRELESS TELECOM FACILITY - 30TH PL.</u>	Project No. (For City Use Only)
---	--

Part II - To be completed when property is held by a corporation or partnership

Legal Status (please check):

☒ Corporation (☐ Limited Liability -or- ☐ General) What State? _____ Corporate Identification No. _____
☐ Partnership

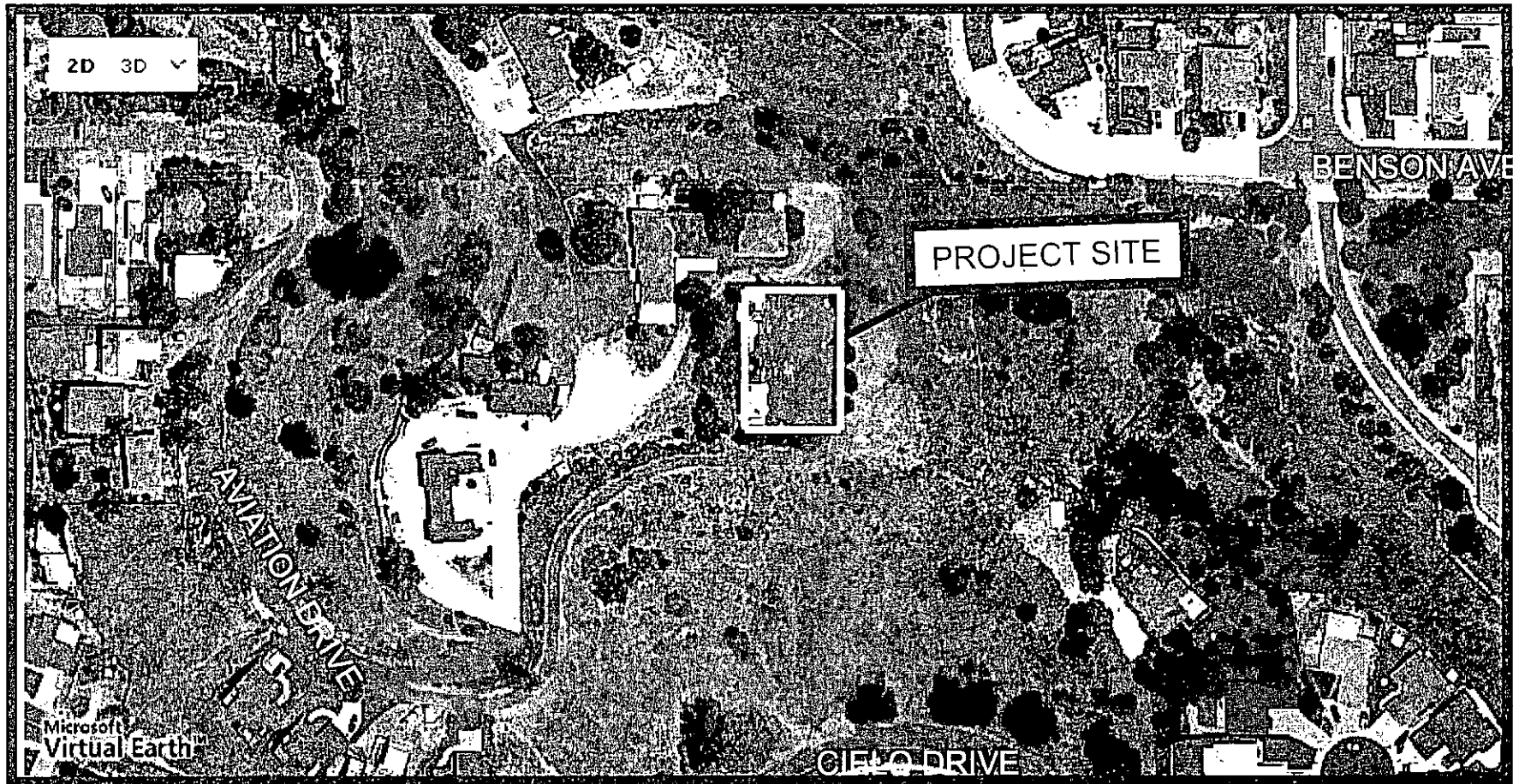
By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property with the intent to record an encumbrance against the property. Please list below the names, titles and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all corporate officers, and all partners in a partnership who own the property). A signature is required of at least one of the corporate officers or partners who own the property. Attach additional pages if needed. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process. Additional pages attached ☐ Yes ☐ No

Corporate/Partnership Name (type or print): <u>VERIZON WIRELESS (VAW) LLC</u> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant/Lessee <u>15505 Sand Canyon Blvd / Real Estate</u> Street Address: <u>Univ. CA 92618</u> City/State/Zip: <u>949/286 8710 949 286 8010</u> Phone No: _____ Fax No: _____ <u>Keith A. Sunrath</u> Name of Corporate Officer/Partner (type or print): <u>Wireless Vice President, Network</u> Title (type or print): <u>Keith A. Sunrath</u> <u>01/05/06</u> Signature : _____ Date: _____	Corporate/Partnership Name (type or print): <u>aba Verizon Wireless</u> <input type="checkbox"/> Owner <input type="checkbox"/> Tenant/Lessee Street Address: City/State/Zip: Phone No: _____ Fax No: _____ Name of Corporate Officer/Partner (type or print): Title (type or print): Signature : _____ Date: _____
Corporate/Partnership Name (type or print): <input type="checkbox"/> Owner <input type="checkbox"/> Tenant/Lessee Street Address: City/State/Zip: Phone No: _____ Fax No: _____ Name of Corporate Officer/Partner (type or print): Title (type or print): Signature : _____ Date: _____	Corporate/Partnership Name (type or print): <input type="checkbox"/> Owner <input type="checkbox"/> Tenant/Lessee Street Address: City/State/Zip: Phone No: _____ Fax No: _____ Name of Corporate Officer/Partner (type or print): Title (type or print): Signature : _____ Date: _____
Corporate/Partnership Name (type or print): <input type="checkbox"/> Owner <input type="checkbox"/> Tenant/Lessee Street Address: City/State/Zip: Phone No: _____ Fax No: _____ Name of Corporate Officer/Partner (type or print): Title (type or print): Signature : _____ Date: _____	Corporate/Partnership Name (type or print): <input type="checkbox"/> Owner <input type="checkbox"/> Tenant/Lessee Street Address: City/State/Zip: Phone No: _____ Fax No: _____ Name of Corporate Officer/Partner (type or print): Title (type or print): Signature : _____ Date: _____

000251

American Tower
Corporation – Aviation
(CUP/PDP)
Verizon
Project No. 92076

000253



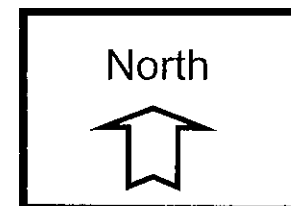
ATTACHMENT G-1



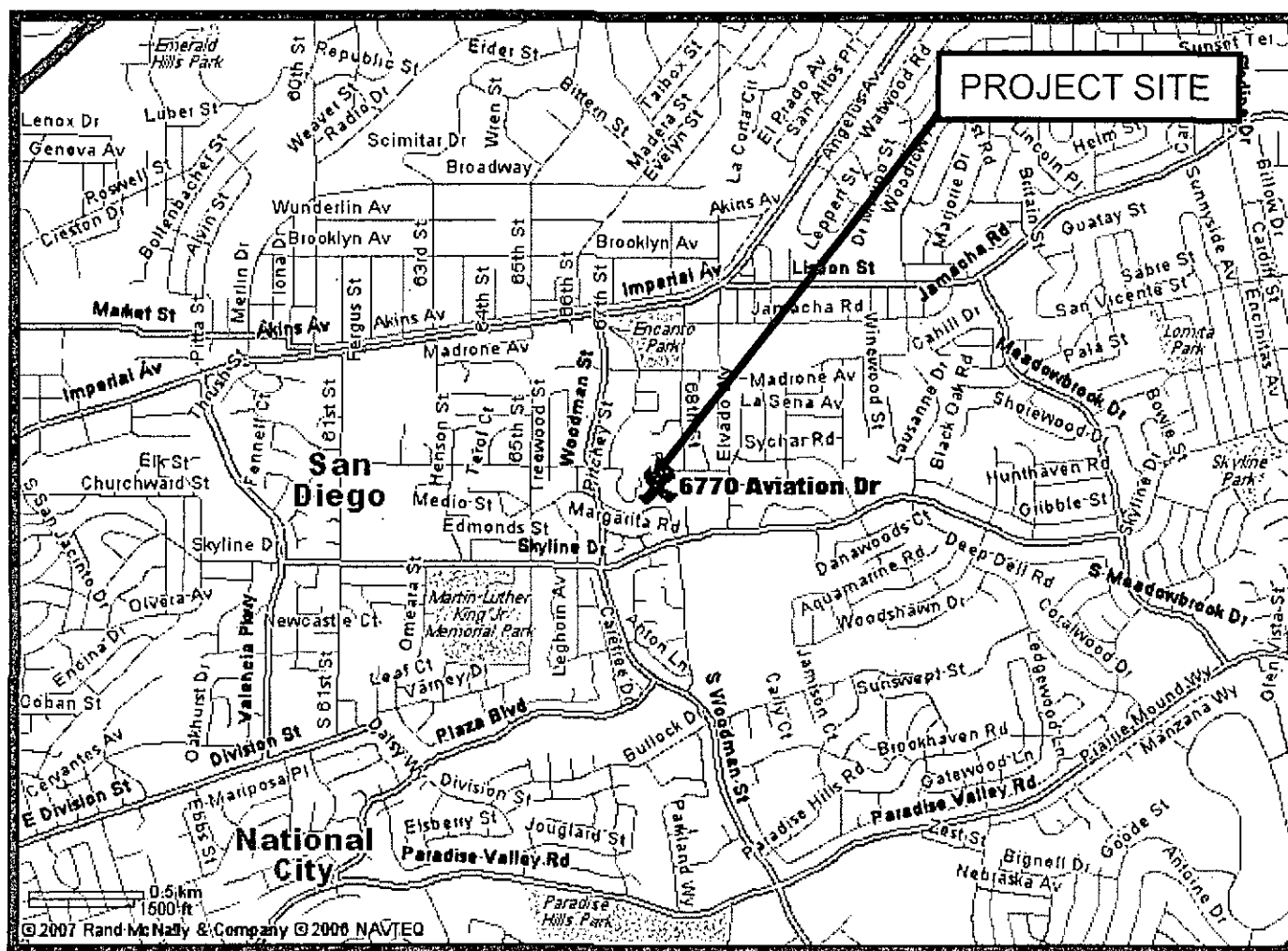
Aerial Photo

AMERICAN TOWER – AVIATION – PROJECT NUMBER 92076

6770 AVIATION DRIVE



000254



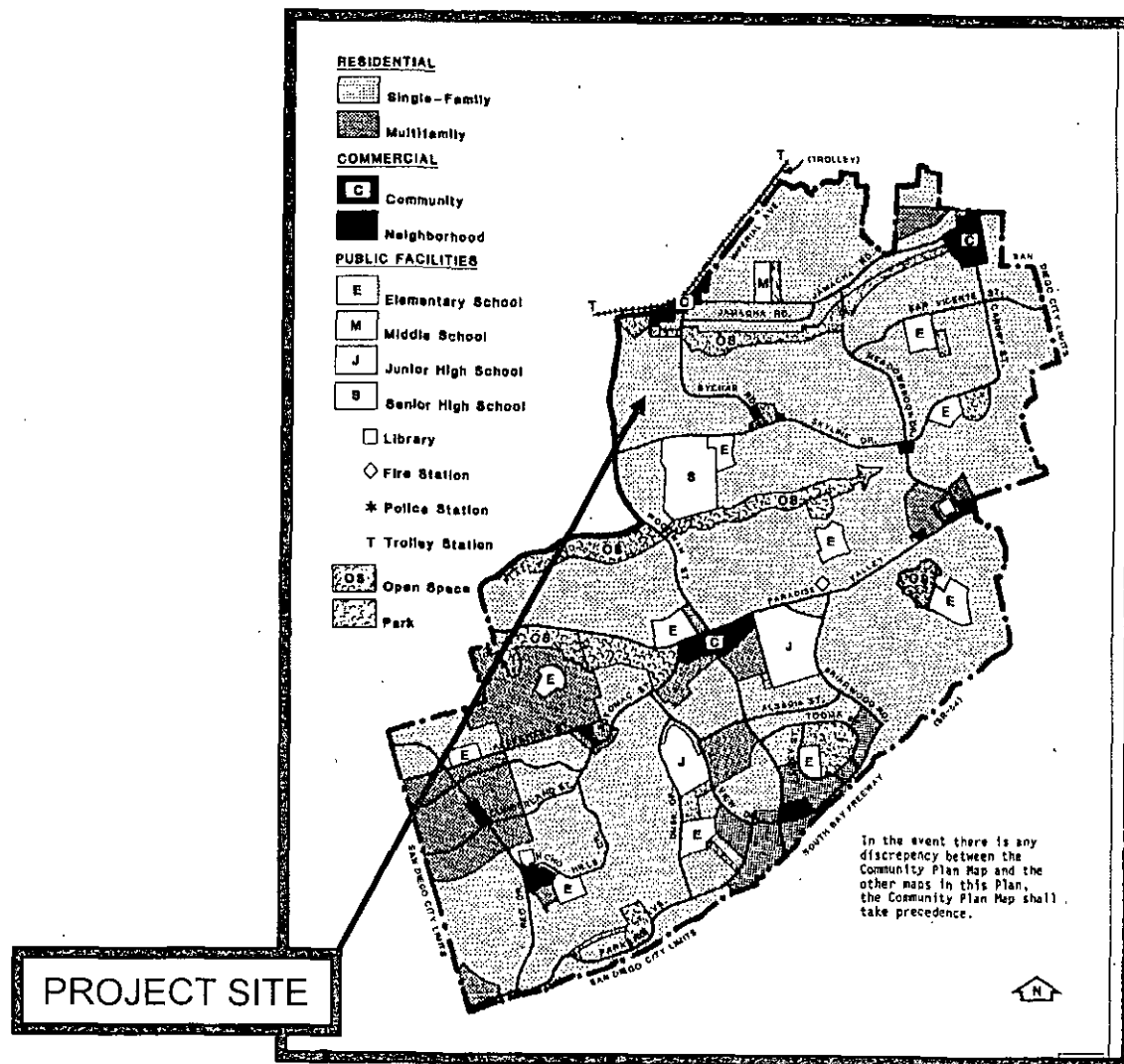
Project Location Map

AMERICAN TOWER – AVIATION – PROJECT NUMBER 92076
6770 AVIATION DRIVE



ATTACHMENT-G-2

000255



SKYLINE PARADISE HILLS COMMUNITY PLAN MAP

AMERICAN TOWER – AVIATION – PROJECT NUMBER 92076

6770 AVIATION DRIVE



ATTACHMENT G-3

000256

ATTACHMENT G-4

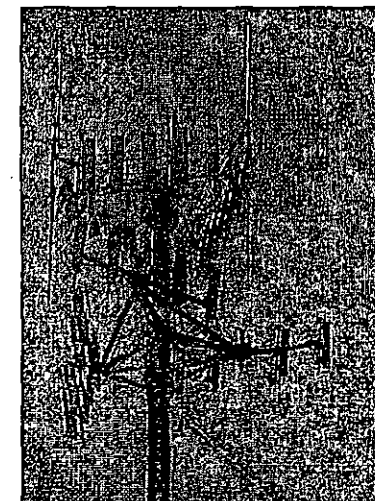
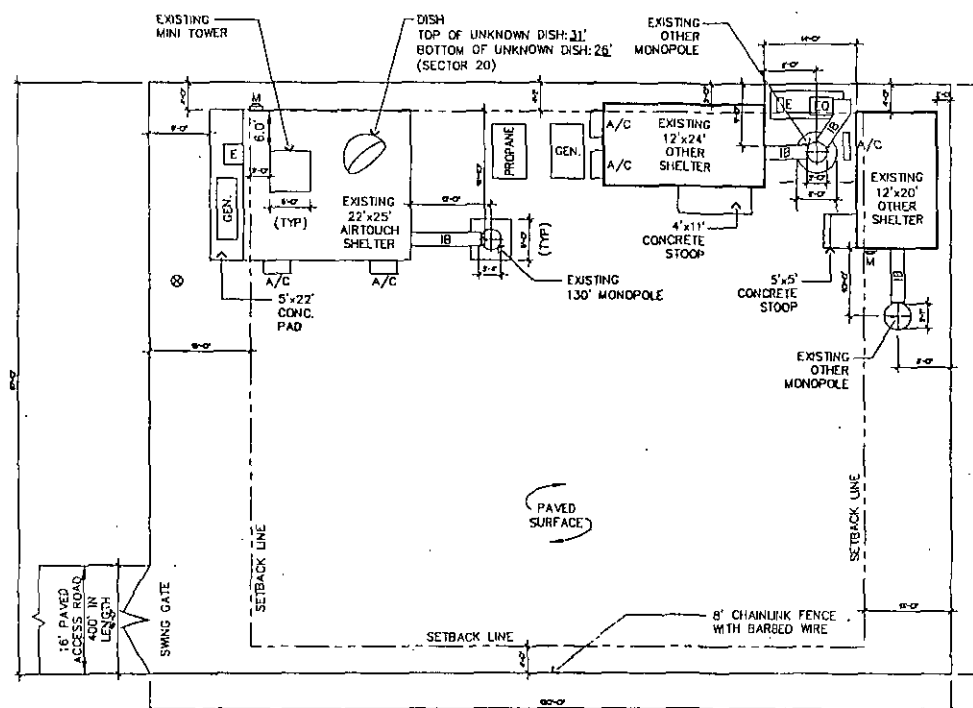
PROJECT DATA SHEET

PROJECT NAME:	American Tower - Aviation	
PROJECT DESCRIPTION:	A wireless communication facility consisting of an existing 130 foot high monopole and a 550 square foot equipment shelter.	
COMMUNITY PLAN AREA:	Skyline Paradise Hills	
DISCRETIONARY ACTIONS:	Conditional Use Permit; Planned Development Permit.	
COMMUNITY PLAN LAND USE DESIGNATION:	Low Density Residential (Allows residential development up to 10 dwelling units per acre).	
<u>ZONING INFORMATION:</u> ZONE: RS-1-7: (A single-unit residential zone that permits 1 dwelling unit for each 5,000 square-feet of lot area) HEIGHT LIMIT: 30-Foot maximum height limit. FRONT SETBACK: 15 feet. SIDE SETBACK: 4 feet. REAR SETBACK: 13 feet.		
<u>ADJACENT PROPERTIES:</u>	LAND USE DESIGNATION & ZONE	EXISTING LAND USE
NORTH:	Low Density Residential; RS-1-7.	Single-Unit Residential
SOUTH:	Low Density Residential; RS-1-7.	Vacant
EAST:	Low Density Residential; RS-1-7.	Vacant, Single-Unit Residential
WEST:	Low Density Residential; RS-1-7.	Single-Unit Residential
DEVIATIONS OR VARIANCES REQUESTED:	Deviation to exceed the maximum height limit of 30 feet.	
COMMUNITY PLANNING GROUP RECOMMENDATION:	This project has not yet been presented to the Skyline Paradise Hills Community Planning Committee.	



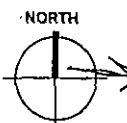
SITE NAME: CA 0040 AVIATION / ATC 300621 CUP APPLICATION

DRAWING INDEX	REV.	DIRECTIONS	PROJECT INFORMATION																	
T-1 TITLE SHEET A-1 SITE PLAN (PENDING) A-2 ENLARGED SITE PLAN A-3 EXTERIOR ELEVATIONS (PENDING) A-4 EXTERIOR ELEVATIONS (PENDING) L-1 LANDSCAPE PLAN (PENDING) S-1 SURVEY (PENDING)	A A A A A A	1. Starting in IRVINE, CA on I-405 go toward ramp - go 0.9 mi 2. Take ramp toward JAMBORREE RD - go 0.4 mi 3. Turn Left on JAMBORREE RD - go 0.1 mi 4. Take ramp onto I-405 - go 0.9 mi 5. Take Left ramp onto I-8 - go 0.7 mi 6. I-8 becomes I-805 - go 10.2 mi 7. Take ramp toward IMPERIAL AVE - go 0.2 mi 8. Turn Left on IMPERIAL AVE - go 2.5 mi 9. Turn Right on WOODLAND ST - go 0.4 mi 10. Turn Left on BENSON AVE - go 0.2 mi 11. BENSON AVE becomes AVIATION DR - go 0.1 mi 12. Arrive at 8770 AVIATION DR, SAN DIEGO, on the Right	SITE ADDRESS: 8770 AVIATION DRIVE SAN DIEGO, CA 92114 PROPERTY OWNER: CITY OF SAN DIEGO - REAL ESTATE ASSETS 207 C STREET, MS-08 SAN DIEGO, CA 91121 APPLICANT: AMERICAN TOWER CORPORATION, INC. 2251 DUPONT DR., # 340 IRVINE, CA 92617 Tel: (949) 442-8402 APPLICANT CONTACT: DOUGLAS KEARNEY ZONING SPECIALIST PH: (949) 442-8408 ZONING: RS-1-T (SKYLINE-PARADISE HILLS) JURISDICTION: CITY OF SAN DIEGO OCCUPANCY: U-1 APN NUMBER: 949-320-05 CURRENT USE: UNMANNED TELECOMMUNICATIONS FACILITY PROPOSED USE: UNMANNED TELECOMMUNICATIONS FACILITY																	
LEGAL DESCRIPTION		VICINITY MAP	N.T.S.																	
PORTION OF LOT 182, ENCINA DE SAN DIEGO MAP No. 15-48																				
DEVELOPMENT SUMMARY AMERICAN TOWER CORPORATION IS REQUESTING APPROVAL FOR THE FOLLOWING PROJECT. CONDITIONAL USE PERMIT AND PLANNED DEVELOPMENT PERMIT.																				
			SITE QUALIFICATION PARTICIPANTS <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th>NAME</th> <th>COMPANY</th> <th>NUMBER</th> </tr> </thead> <tbody> <tr> <td>ARCHITECT</td> <td>JORGE BASILIO, AIA</td> <td>BASILIO ASSOCIATES, INC.</td> <td>(619) 727-4200</td> </tr> <tr> <td>ZONING</td> <td>DOUG KEARNEY</td> <td>AMERICAN TOWER CORPORATION</td> <td>(619) 442-8402</td> </tr> </tbody> </table>		NAME	COMPANY	NUMBER	ARCHITECT	JORGE BASILIO, AIA	BASILIO ASSOCIATES, INC.	(619) 727-4200	ZONING	DOUG KEARNEY	AMERICAN TOWER CORPORATION	(619) 442-8402					
	NAME	COMPANY	NUMBER																	
ARCHITECT	JORGE BASILIO, AIA	BASILIO ASSOCIATES, INC.	(619) 727-4200																	
ZONING	DOUG KEARNEY	AMERICAN TOWER CORPORATION	(619) 442-8402																	
	<p style="font-size: small;">Basilio Associates, Inc. Architecture + Planning + Design 1215 ALLCRAFT BLVD. STE. 100, IRVINE, CALIF. 92614 PHONE: (949) 727-4200 FAX: (949) 727-4201</p>	SITE: ATC 300621 ID: CA 0040 AVIATION 8770 AVIATION DRIVE SAN DIEGO, CA 92114	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>REVISIONS</th> <th>BY</th> <th>CHK.</th> <th>APP'D.</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>12-18-08</td> <td>PREPARED FOR CUP APPLICATION</td> <td></td> <td></td> <td></td> </tr> </tbody> </table> <p>SCALE: AS SHOWN DESIGNED: — DRAWN: JK</p>	NO.	DATE	REVISIONS	BY	CHK.	APP'D.	1	12-18-08	PREPARED FOR CUP APPLICATION				TITLE SHEET <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>PROJECT NUMBER</th> <th>DRAWING NUMBER</th> </tr> </thead> <tbody> <tr> <td></td> <td>T-1</td> </tr> </tbody> </table>	PROJECT NUMBER	DRAWING NUMBER		T-1
NO.	DATE	REVISIONS	BY	CHK.	APP'D.															
1	12-18-08	PREPARED FOR CUP APPLICATION																		
PROJECT NUMBER	DRAWING NUMBER																			
	T-1																			



(E) ANTENNAS DETAIL

SETBACK LINES:
FRONT 15'-0"
SIDES: 4'-0"
REAR: 13'-0"



ENLARGED SITE PLAN



Basilio Associates, Inc.
Architectural & Planning & Design
12220 BUCKLEY BLVD. #100, SAN DIEGO, CA 92126
PHONE (619) 701-1000 FAX (619) 701-1001

SITE: ATC 300621
ID: CA 0040 AVIATION
6770 AVIATION DRIVE
SAN DIEGO, CA 92124

NO.	DATE	REVISIONS	BY	CHK	APP'D
1	12-18-03	ISSUED FOR EIR APPLICATION			
2					
3					
4					
5					
6					
7					
8					
9					
10					

SCALE: 1" = 10' 1"

ENLARGED SITE PLAN

PROJECT NUMBER: A-2

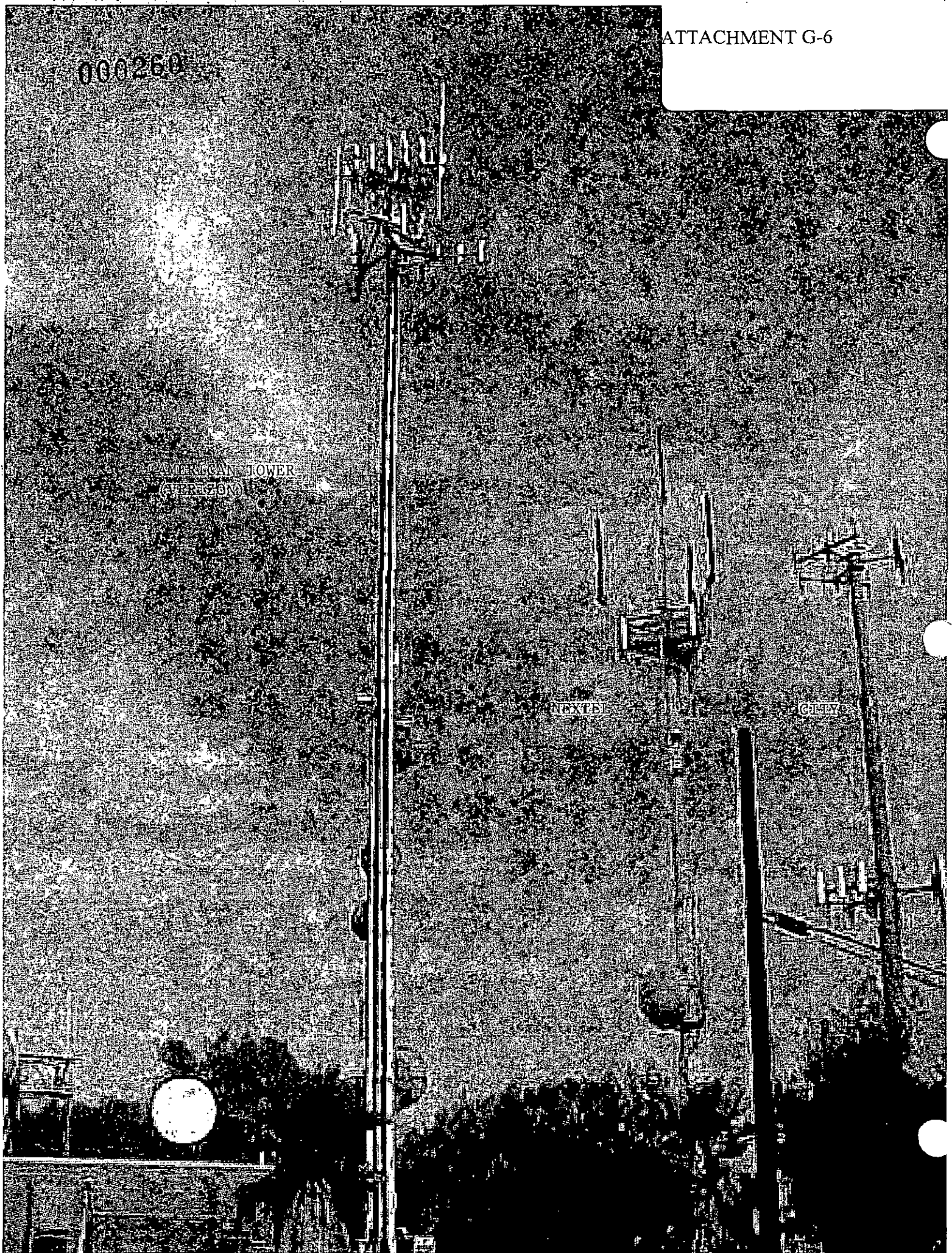
8.1.11.11

000259

ATTACHMENT G-6



000260



AMERICAN TOWER
(APR 2010)

REXTER

CHLEY

PLANNING COMMISSION
RESOLUTION NO.
CONDITIONAL USE PERMIT NO. 296155
PLANNED DEVELOPMENT PERMIT NO. 296156
AMERICAN TOWER – AVIATION
PROJECT NO. 92076

WHEREAS, City of San Diego, Owner and American Tower Corporation, Permittee, filed an application with the City of San Diego for a permit for a wireless communication facility (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Conditional Use Permit No. 296155 and Planned Development Permit No. 296156, on portions of a .51 acre site;

WHEREAS, the project site is located at 6770 Aviation Drive in the RS-1-7 zone of the Skyline Paradise Hills Community Plan;

WHEREAS, the project site is legally described as that portion of Lot 162, Encina De San Diego, in the City of San Diego, County of San Diego, State of California, according to map thereof No. 1546, filed in the Office of the County Recorder of said County of San Diego;

WHEREAS, on June 28, 2007, the Planning Commission of the City of San Diego considered Conditional Use Permit No. 296155 and Planned Development Permit No. 296156, pursuant to the Land Development Code of the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED by the Planning Commission of the City of San Diego as follows:

That the Planning Commission adopts the following written Findings, dated June 28, 2007.

FINDINGS:

Conditional Use Permit - Section 126.0305

1. The proposed development will not adversely affect the applicable land use plan;

This facility was originally approved by the City Council on November 20, 1984. The Conditional Use Permit (CUP) included a 20 year expiration. At the time of approval, the City did not have applicable regulations for these types of facilities so the City Council imposed a twenty year limit in order to re-evaluate the project in light of new regulations and or policies that may be in effect. The project exists as it did after initial construction and American Tower Corporation is now seeking to obtain another CUP to maintain the facility as is.

Neither the City of San Diego General Plan nor the Southeastern San Diego Community Plan addresses wireless communication facilities as a specific land use.

2. The proposed development will not be detrimental to the public health, safety, and welfare;

The Telecommunication Act of 1996 preempts local governments from regulating the “placement, construction and modification of wireless communication facilities on the basis of the environmental effects of Radio Frequency (RF) emission to the extent that such facilities comply with the Federal Communication Commission’s (FCC) standards for such emissions.” If the decision maker approves the existing facility, a condition will be included within the permit to require American Tower to perform a cumulative model RF test and submit the finding in a report to the City of San Diego within 90 days of approval of the CUP/PDP.

3. The proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code; and

This facility was originally approved by the City Council on November 20, 1984. The Conditional Use Permit (CUP) included a 20 year expiration. At the time of approval, the City did not have applicable regulations for these types of facilities so the City imposed a ten year time limit in order to re-evaluate the project in light of new regulations and or policies that may be in effect. The project exists as it did after initial construction and American Tower Corporation is now seeking to obtain another CUP to maintain the facility as is.

Since 2000, the City has had a Communication Antenna ordinance that requires architectural or environmental integration with the project site. Pursuant to the San Diego Land Development Code, wireless communication facilities are permitted in all zones citywide with the appropriate permits. Wireless communication facilities are separately regulated uses, which have limitations or require compliance with conditions in order to minimize potential impacts. The intent of the regulations is to camouflage facilities from public view. In this case, the monopole is the tallest structure in and around the area in which it is located and as such, it has an incongruous effect on the community’s landscape. It is situated prominently on a residential hill top within the community of Skyline. The tower poses an unsightly visual impact that can be seen from the surrounding residential communities and major thoroughfares.

Section 141.0405 of the Land Development Code differentiates between minor and major telecommunication facilities. Minor telecommunication facilities include those that are concealed from public view or integrated into the architecture or surrounding environment through architectural enhancement (enhancements that complement the scale, texture, color and style) unique design solutions, or accessory use structures. Major telecommunication facilities are antenna facilities that do not meet the criteria for minor telecommunication facilities or they are located in residential zones containing residential uses. Similar to minor facilities, they also need to be designed to be minimally visible through the use of architecture, landscape architecture and siting solutions. The Aviation project does not conform to this code requirement. As it exists, the tower is a significant visual impact to the surrounding residential communities.

Therefore, the project does not comply to the maximum extent feasible with the regulations of the Land Development Code.

4. The proposed use is appropriate at the proposed location.

A wireless communication facility at this location is an appropriate use subject to compliance with the ordinances and policies that regulate telecommunication facilities. Due to the fact that the existing facility does not comply with current regulations and policies, this finding cannot be affirmed. A facility that better integrates into the property and takes into consideration the surroundings including the prominent hilltop location and the proximity to the existing residential uses that exist around the facility would be more appropriately located on this property.

Planned Development Permit - Section 126. 0604

1. The proposed development will not adversely affect the applicable land use plan;

This facility was originally approved by the City Council on November 20, 1984. The Conditional Use Permit (CUP) included a 20 year expiration. At the time of approval, the City did not have applicable regulations for these types of facilities so the City Council imposed a ten year limit in order to re-evaluate the project in light of new regulations and or policies that may be in effect. The project exists as it did after initial construction and the new owner, American Tower Corporation is now seeking to obtain another CUP to maintain the facility as is.

Neither the City of San Diego General Plan nor the Skyline Paradise Hills Community Plan addresses wireless communication facilities as a specific land use.

2. The proposed development will not be detrimental to the public health, safety, and welfare; and

The Telecommunication Act of 1996 preempts local governments from regulating the "placement, construction and modification of wireless communication facilities on the basis of the environmental effects of Radio Frequency (RF) emission to the extent that such facilities comply with the Federal Communication Commission's (FCC) standards for such emissions." If the decision maker approves the existing facility, a condition will be included within the permit to require American Tower to perform a cumulative model RF test and submit the finding in a report to the City of San Diego within 90 days of approval of the CUP.

3. The proposed development will comply with the applicable regulations of the Land Development Code.

The monopole complies with all the development regulations of the RS-1-7 zone except for the height limit of 30 feet. The monopole is 90 feet tall on a residential hill top in the Skyline community. Development in the area is low in scale and is primarily residential. The existing tower exceeds the RS-1-7 zone height limit by 60 feet. Deviations to the development regulations require a Planned Development Permit, which is a mechanism to encourage imaginative and innovative planning and to assure that the project achieves the purpose and intent of the applicable land use plan and that it would be preferable to what would be achieved by strict conformance with the regulations.

This project was originally constructed in the mid-1980's when Pac Tel Mobile (now Verizon) was only one of two wireless carriers in San Diego. Their network was being established with tower structures and branched out to building collocations later. Typically, carriers initially built tall facilities, later filling in their networks with lower sights. Verizon signed the contract (CUP84-0472) acknowledging the 20 year time limit on the facility. In order to maintain a facility at this site, a new application in compliance with the current regulations and policies would be required.

4. The proposed development, when considered as a whole, will be beneficial to the community; and

The monopole serves Verizon subscribers in the surrounding communities, as well as commuters passing through the area and as such, is a beneficial service. Conversely, the significant visual impacts that the pole creates are detrimental to the surrounding communities as well as to the City of San Diego. The pole sits on a hilltop at an approximate elevation of 480 feet. The pole is 130 feet tall. The surrounding community is developed at lower elevations on and around this hill top. There are three tower structures altogether at this site. Nextel is replacing their 90 foot tall pole with a faux tree and the other monopole belongs to the City. The City's 115 foot tall monopole will remain on this site as it is a part of the backbone of the City's emergency communications. The original design of this tower was developed 20 years ago when the technology was at its infancy. The CUP was conditioned to expire in 20 years and as the owner and operator of the facility, Verizon and American Tower Corporation had the responsibility of making preparations within their network to comply with any new regulations or policies in effect, which may have included a required reduction in height.

5. Any proposed deviations pursuant to Section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.

The applicant, American Tower Corporation, is requesting to deviate from the RS-1-7 height limitation of 30 feet. The existing tower is 130 feet tall and can be viewed from miles away. It sits on a residential hill top within the Skyline Paradise Hills community and is a significant visual impact within San Diego. The project, as it exists, does not result in a visually desirable project. If redesigned to comply with the 30 foot height limit, Verizon services to the community and passing commuters would be significantly reduced. Section 141.0405 of the Land Development Code requires telecommunication facilities to integrate into the landscape in which they are proposed. If this facility were to be redesigned to comply with this section of the Code, a reasonable height deviation may be considered. The existing tower does not result in an acceptable project.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Conditional Use Permit No. 296155 and Planned Development Permit No. 296156 is hereby DENIED by the Planning Commission.

Karen Lynch-Ashcraft
Development Project Manager
Development Services

Adopted on: June 28, 2007

Job Order No. 42-5782

000267

CONDITIONAL USE PERMIT
NO. 84-0472
CITY COUNCIL

This Conditional Use Permit is granted by the Planning Commission of The City of San Diego to PAC TEL MOBILE ACCESS, a Delaware Corporation, Owner/Permittee, under the conditions in Section 101.0507 of the Municipal Code of The City of San Diego.

1. Permission is granted to Owner/Permittee to construct and operate a communication facility consisting of an equipment building and antenna tower located on the north side of Aviation Drive, south of Benson Avenue, described as a Portion of Lot 162, Encina de San Diego Addition No. 1, Map 1546, in the R1-5000 Zone.

2. The facility shall consist of the following:

- a. A 26-foot by 22-foot equipment building and a 145-foot high antenna tower for frequency reception and transmission. The color of the pole shall be cool, medium-light grey.;
- b. Accessory uses as may be determined incidental and approved by the Planning Director;
- c. Off-street parking for service personnel.

3. No fewer than two off-street parking spaces shall be maintained on the property in the approximate location shown on Exhibit "A," dated October 25, 1984, on file in the office of the Planning Department. Parking spaces shall be consistent with Division 8 of the Municipal Code and shall be permanently maintained and not converted for any other use. Parking spaces and aisles shall conform to Planning Department standards. Parking areas shall be marked.

4. No permit for construction of any facility shall be granted nor shall any activity authorized by this permit be conducted on the premises until:

- a. The Permittee signs and returns the permit to the Planning Department;
- b. The Conditional Use Permit is recorded in the office of the County Recorder.

000268

5. Before issuance of any building permits, complete plans shall be submitted to the Planning Director for approval. Plans shall be in substantial conformity to Exhibit "A," dated October 25, 1984, on file in the office of the Planning Department. No change, modifications or alterations shall be made unless appropriate applications for amendment of this permit shall have been granted.

6. Before issuance of any building permits, a complete landscape plan, including a permanent irrigation system, shall be submitted to the Planning Director for approval. The plans shall be in substantial conformity to Exhibit "A," dated October 25, 1984, on file in the office of the Planning Department. Approved planting shall be installed before issuance of any occupancy permit on any building. Such planting shall not be modified or altered unless this permit has been amended. Specific plant species shall be identified on final landscaping plans and shall be subject to Planning Director approval.

7. All outdoor lighting shall be so shaded and adjusted that the light is directed to fall only on the same premises as light sources are located and not reflect onto adjacent properties.

8. This Conditional Use Permit must be used within 36 months after the date of City approval or the permit shall be void. An Extension of Time may be granted as set forth in Section 101.0506 and 101.0507 of the Municipal Code. Such extension of time shall be subject to all regulations in force at the time of the extension.

9. After establishment of the project, the property shall not be used for any other purposes unless:

- a. Authorized by the City Council; or
- b. The proposed use meets every requirement of the zone existing for the property at the time of conversion; or
- c. The permit has been revoked by the City.

10. This Conditional Use Permit may be revoked by the City if there is a material breach or default in any of the conditions of this permit.

11. This Conditional Use Permit is a covenant running with the lands and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out.

000269

12. This permit shall expire 20 years from the date of approval. If an extension is requested, the operation and conditions shall be reviewed at public hearings by the Planning Commission and City Council.

13. In the event that additional cellular mobile phone communication systems are needed in the future that would require a transmitting tower or towers in the vicinity of this approved facility, the permittee shall allow the installation of antennas on the tower authorized by this permit and the installation of necessary support equipment on the premises if the applicant for such additional antennae and support equipment shows that the operation thereof would not interfere with the operation of the permittee's antennae and support equipment and the co-location of such antennae and support equipment are otherwise technically feasible and compatible, and such additional antennae and support equipment are approved by The City of San Diego following a noticed public hearing on the matter.

ADOPTED BY THE COUNCIL OF THE CITY OF SAN DIEGO ON NOVEMBER 20, 1984.



000271

THE CITY OF SAN DIEGO

DATE OF NOTICE: June 14, 2007

NOTICE OF PUBLIC HEARING PLANNING COMMISSION

DATE OF HEARING: June 28, 2007
TIME OF HEARING: 9:00 A.M.
LOCATION OF HEARING: Council Chambers, 12th Floor, City Administration Building,
202 C Street, San Diego, California 92101

PROJECT TYPE: Conditional Use Permit/Planned Development Permit
PROJECT NUMBER: 92076
PROJECT NAME: AMERICAN TOWER - AVIATION
APPLICANT: Jim Kelly, American Tower Corporation

COMMUNITY PLAN AREA: Skyline Paradise Hills
COUNCIL DISTRICT: District 4

CITY PROJECT MANAGER: Karen Lynch-Ashcraft, Development Project Manager
PHONE NUMBER: (619) 446-5351

As a property owner, tenant or person who has requested notice, you should know that the Planning Commission will hold a public hearing to approve, conditionally approve, or deny an application for wireless communication facility consisting of an existing 130 foot high monopole and a 550 square foot equipment shelter, originally approved by CUP No. 84-0472, which expired on November 20, 2004. The facility is located at 6770 Aviation Drive between Benson Avenue and Cielo Drive.

The decision of the Planning Commission is final unless the project is appealed to the City Council. In order to appeal the decision of the Planning Commission you must be present at the public hearing and file a speaker slip concerning the application or have expressed interest by writing to the Planning Commission before the close of the public hearing. To file an appeal, contact the City Clerk at 202 "C" Street, Second Floor. The appeal must be made within 10 working days of the Planning Commission decision. If you wish to challenge the City's action on the above proceedings in court, you may be limited to addressing only those issues you or someone else have raised at the public hearing described in this notice, or written in correspondence to the City at or before the public hearing.

This project was determined to be categorically exempt from the California Environmental Quality Act on March 1, 2007 and the opportunity to appeal that determination ended March 15, 2007.

If you have any questions after reviewing this information, you can contact the City Project Manager listed above.

This information will be made available in alternative formats upon request. To request an agenda in alternative format or to request a sign language or oral interpreter for the meeting, call the Disability Services Program Coordinator at 236-5979 at least five working days prior to the meeting to insure availability. Assistive Listening Devices (ALD's) are available for the meeting upon request.

Job Order No. 42-5782

Revised 02/08/07/hmd



City of San Diego
Development Services
1222 First Ave., MS-302
San Diego, CA 92101
(619) 446-5000

Ownership Disclosure Statement

Approval Type: Check appropriate box for type of approval (s) requested: ☐ Neighborhood Use Permit ☐ Coastal Development Permit
☐ Neighborhood Development Permit ☐ Site Development Permit ☒ Planned Development Permit ☒ Conditional Use Permit
☐ Variance ☐ Tentative Map ☐ Vesting Tentative Map ☐ Map Waiver ☐ Land Use Plan Amendment ☐ Other

Project Title

Project No. For City Use Only

EXISTING WIRELESS TELECOMMUNICATIONS FACILITY - AVIATION DR.

Project Address:

CITY RESERVOIR - ENCANTO @ AVIATION DRIVE

APN 549-320-05

Part I - To be completed when property is held by individual(s)

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property, with the intent to record an encumbrance against the property. Please list below the owner(s) and tenant(s) (if applicable) of the above referenced property. The list must include the names and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all individuals who own the property). A signature is required of at least one of the property owners. Attach additional pages if needed. A signature from the Assistant Executive Director of the San Diego Redevelopment Agency shall be required for all project parcels for which a Disposition and Development Agreement (DDA) has been approved / executed by the City Council. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Additional pages attached ☐ Yes ☒ No

Name of Individual (type or print):

City of San Diego READ

☒ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

1200 Third Ave, Suite 1700

San Diego, CA 92101

City/State/Zip:

Phone No: 619 236-6792 Fax No:

Signature: Beth Muhlert Date: 12/5/05

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No: Fax No:

Signature: Date:

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No: Fax No:

Signature: Date:

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

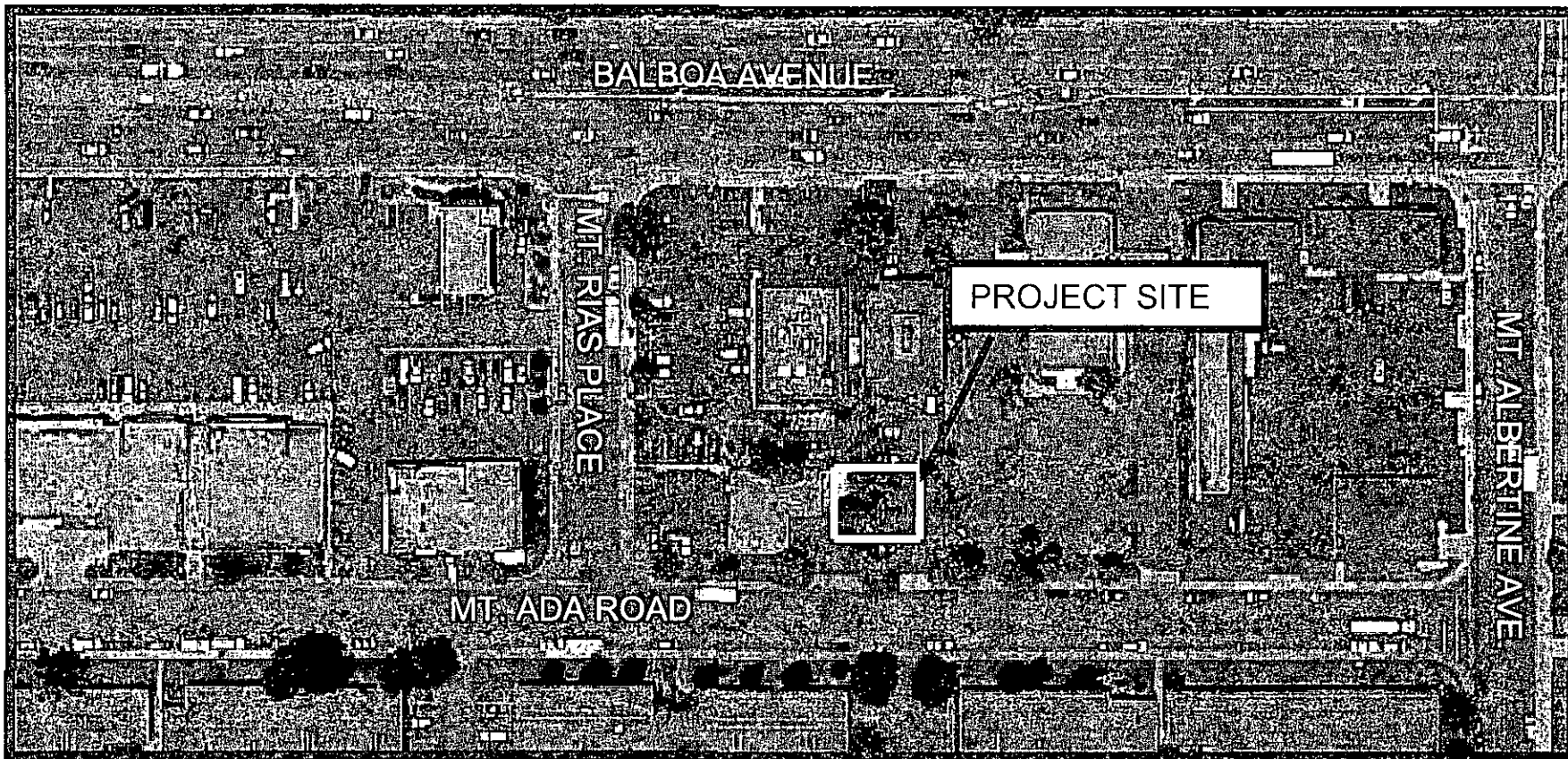
Phone No: Fax No:

Signature: Date:

000275

American Tower
Corporation – Mt. Ada
(CUP/SDP)
Verizon
Project No. 91178

000277

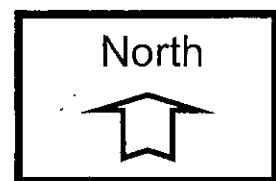


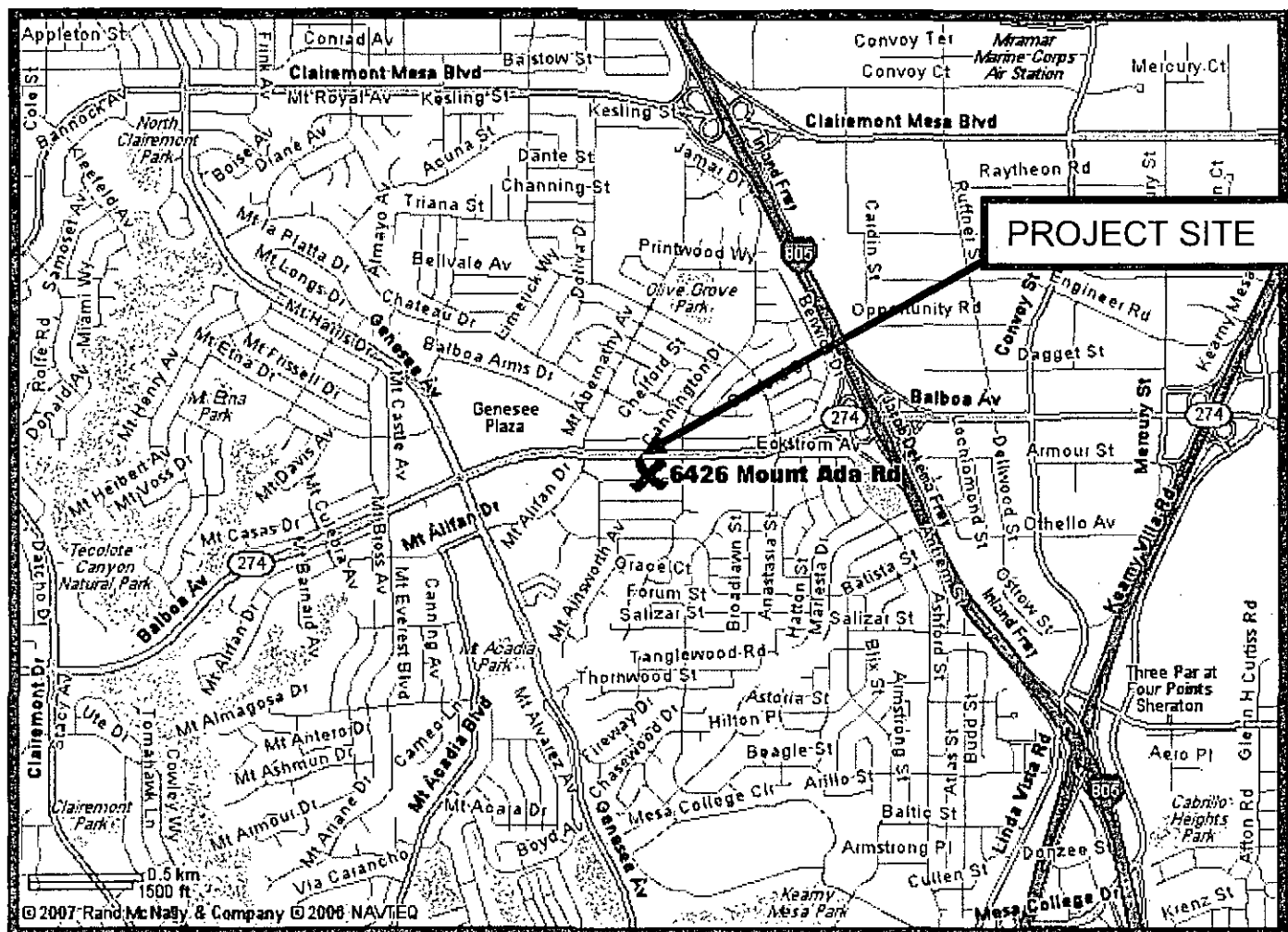
ATTACHMENT H-1

Aerial Photo

AMERICAN TOWER – MT. ADA – PROJECT NUMBER 91178

6426 MT. ADA ROAD

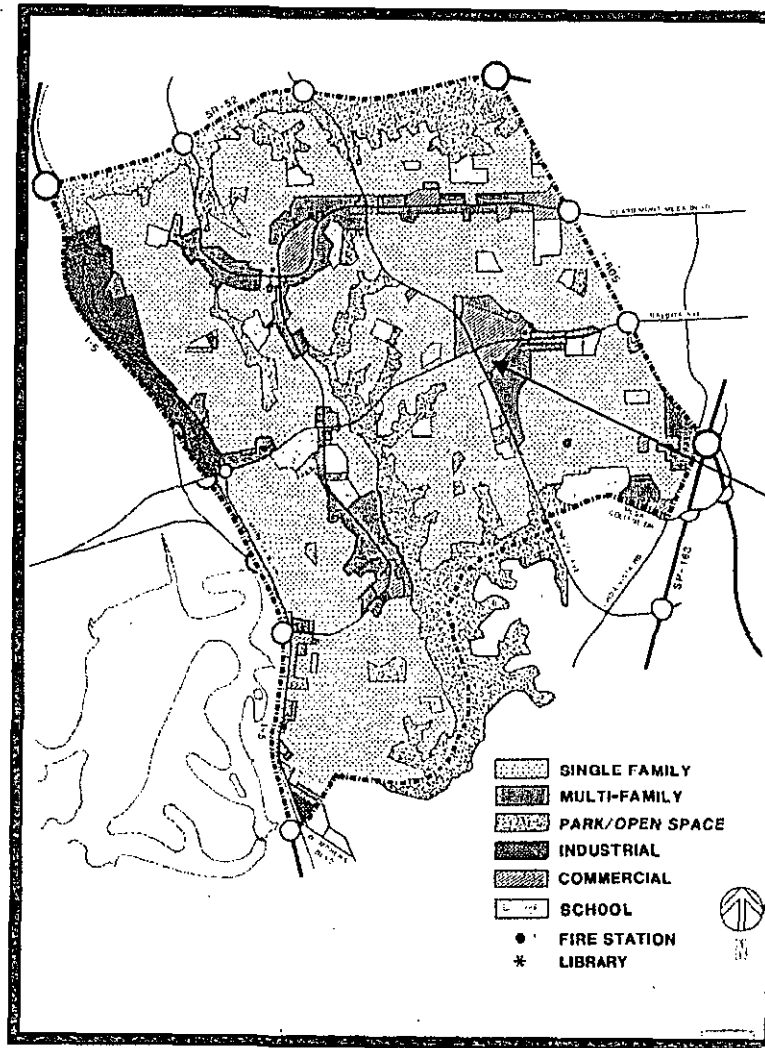




Project Location Map

AMERICAN TOWER – MT. ADA – PROJECT NUMBER 91178
6426 MT. ADA ROAD





PROJECT SITE

CLAIREMONT MESA COMMUNITY PLAN MAP

AMERICAN TOWER – MT. ADA – PROJECT NUMBER 91178

6426 MT. ADA



PROJECT DATA SHEET

PROJECT NAME:	American Tower – Mt. Ada	
PROJECT DESCRIPTION:	A wireless communication facility consisting of an existing 145 foot high monopole and a 572 square foot equipment shelter.	
COMMUNITY PLAN AREA:	Clairemont Mesa	
DISCRETIONARY ACTIONS:	Conditional Use Permit; Site Development Permit	
COMMUNITY PLAN LAND USE DESIGNATION:	Commercial Community Core	
<u>ZONING INFORMATION:</u> ZONE: CC-1-3: (A auto oriented commercial zone) HEIGHT LIMIT: 30-Foot maximum height limit. FRONT SETBACK: - SIDE SETBACK: 10 feet or 0. REAR SETBACK: 10 feet or 0.		
<u>ADJACENT PROPERTIES:</u>	LAND USE DESIGNATION & ZONE	EXISTING LAND USE
NORTH:	Commercial Community Core; CC-1-3.	Commercial
SOUTH:	Multi-Unit Residential; RM-3-7.	Multi-Unit Residential
EAST:	Commercial Community Core; CO-1-2.	Commercial
WEST:	Commercial Community Core; CC-1-3.	Commercial
DEVIATIONS OR VARIANCES REQUESTED:	Request to deviate from the 30 foot Clairemont Mesa Height Limitation Overlay Zone	
COMMUNITY PLANNING GROUP RECOMMENDATION:	On March 21, 2006, the Clairemont Mesa Planning Committee voted 14-0-0 to recommend denial of the Mt. Ada project.	



SITE NAME: 300647 CA 0066 MT. ADA CUP AND PDP APPLICATION

DRAWING INDEX	REV.	DIRECTIONS	PROJECT INFORMATION												
T-1 TITLE SHEET A-1 SITE PLAN A-2 ENLARGED SITE PLAN A-3 EXTERIOR ELEVATIONS A-4 EXTERIOR ELEVATIONS L-1 LANDSCAPE DRAWING S-1 SURVEY FOR REFERENCE ONLY	A A A A A A	FROM ATC IRVINE OFFICE, TAKE FWY 5 SOUTH TOWARD SAN DIEGO, Take Left fork onto I-805 SOUTH - go 6.0 mi Take the GALDUA AVE exit - go 0.3 mi Turn Right on BALBOA AVE - go 0.4 mi Turn Left on MT ALBERTINE AVE - go 0.1 mi Turn Right on MT ADA RD - go 0.1 mi Arrive at 6426 MOUNT ADA RD, SAN DIEGO, on the Right	SITE ADDRESS: 6426 MT. ADA RD. SAN DIEGO, CA 92111 PROPERTY OWNER: BUCKEL TRUST 10513 SOLOMON CREEK RD. DESCANSO, CA 91916 APPLICANT: AMERICAN TOWER CORPORATION, INC. 2301 DUPONT Dr., #348 IRVINE, CA 92612 Tel: (949) 442-6406 APPLICANT CONTACT: DOUGLAS KEARNEY ZONING SPECIALIST PH: (949) 442-6406 LATITUDE: 32° 40' 11.17" LONGITUDE: 117° 10' 22.12" ZONING: CC-1-3 JURISDICTION: CITY OF SAN DIEGO OCCUPANCY: U-1 APN NUMBER: 418-120-67-00 CURRENT USE: UNMANNED TELECOMMUNICATIONS FACILITY PROPOSED USE: UNMANNED TELECOMMUNICATIONS FACILITY												
LEGAL DESCRIPTION		VICINITY MAP	N.T.S.												
PORTION OF PARCEL B, PARCEL MAP 227															
DEVELOPMENT SUMMARY															
<p>American Tower Corporation is requesting approval for the following project: Conditional Use Permit application and Planned Development Permit. The Project requires the renewal of CUP No. 83-0625, issued by the City of San Diego for a Wireless Telecommunications Facility. The existing monopole is a 132 feet tall and includes 15 Verizon antennas mounted at 130', and a second set of 15 Verizon antennas mounted at 98 feet. Three microwave dishes are located at 80 feet, 71 feet and 89 feet. One 25'x25' equipment building is located on the north side of the pole, and one generator unit is located on the south side of pole. American Tower is requesting the CUP extension and PD in order to allow wireless providers uninterrupted wireless telephone service.</p>		<div style="text-align: center;"> </div>													
		PROJECT TEAM													
		<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th>NAME</th> <th>COMPANY</th> <th>NUMBER</th> </tr> </thead> <tbody> <tr> <td>ARCHITECT</td> <td>JORGE BASILIO, AIA</td> <td>BASILIO ASSOCIATES, INC.</td> <td>(949) 727-4200</td> </tr> <tr> <td>ZONING:</td> <td>DOUG KEARNEY</td> <td>AMERICAN TOWER CORPORATION</td> <td>(949)-442-6402</td> </tr> </tbody> </table>			NAME	COMPANY	NUMBER	ARCHITECT	JORGE BASILIO, AIA	BASILIO ASSOCIATES, INC.	(949) 727-4200	ZONING:	DOUG KEARNEY	AMERICAN TOWER CORPORATION	(949)-442-6402
	NAME	COMPANY	NUMBER												
ARCHITECT	JORGE BASILIO, AIA	BASILIO ASSOCIATES, INC.	(949) 727-4200												
ZONING:	DOUG KEARNEY	AMERICAN TOWER CORPORATION	(949)-442-6402												



SITE No.: 300647
 ID: CA 0066 MOUNT ADA
 6426 MT. ADA RD.
 SAN DIEGO, CA 92111

A 12-DIGIT-01 ISSUED FOR CUP APPLICATION		BY		CHK		APP'D	
NO	DATE	REVISIONS	BY	CHK	APP'D		
SCALE: AS SHOWN		DESIGNED: -	DRAWN: JB				

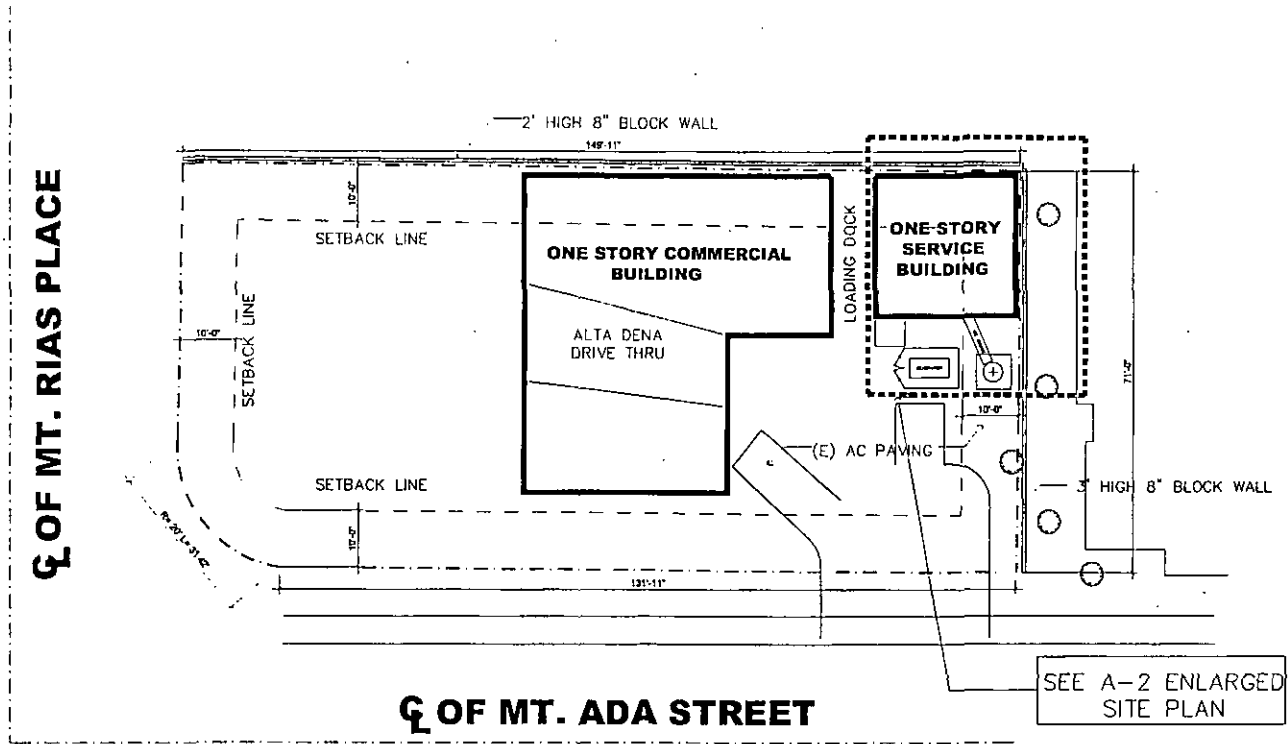
TITLE SHEET

PROJECT NUMBER

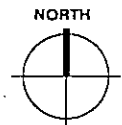
DRAWING NUMBER

T-1

21 X 34" 5/8"



SETBACK LINES:
 FRONT: 10'-0"
 SIDES: 10'-0"
 REAR: 10'-0"



SITE PLAN

SCALE: 1" = 10'-0"



Basilio Associates, Inc.
 Architecture • Planning • Design
 12 J BRACKET, SUITE 100, RIVER, CA 92111
 PHONE: (619) 732-4300 FAX: (619) 732-4305

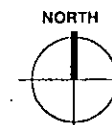
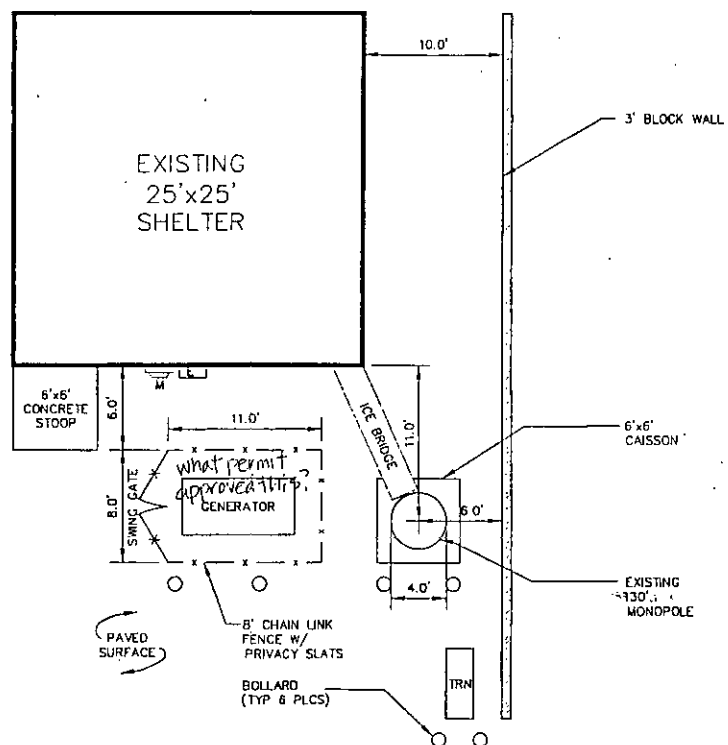
SITE No.: 300647
ID: CA 0066 MOUNT ADA
 6426 MT. ADA RD.
 SAN DIEGO, CA 92111

NO.	DATE	REVISIONS	BY	CHK	APP'D
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					

SCALE: AS SHOWN DESIGNED: — DRAWN: JB

SITE PLAN

PROJECT NUMBER: **A-1**
 DRAWING NUMBER: **A-1**



ENLARGED SITE PLAN

SCALE
1" = 10' 0"

1



Basilio Associates, Inc.
 Architecture + Planning + Design
 182001251 5000 1st, Suite 100, San Diego, CA 92121
 Phone: (619) 594-1100 Fax: (619) 594-1101

SITE No.: 300647
 ID: CA 0066 MOUNT ADA
 6426 MT. ADA RD.
 SAN DIEGO, CA 92111

NO.	DATE	REVISIONS	BY	CHK	APP'D
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					

SCALE: AS SHOWN DESIGNED - DRAWN - JOB

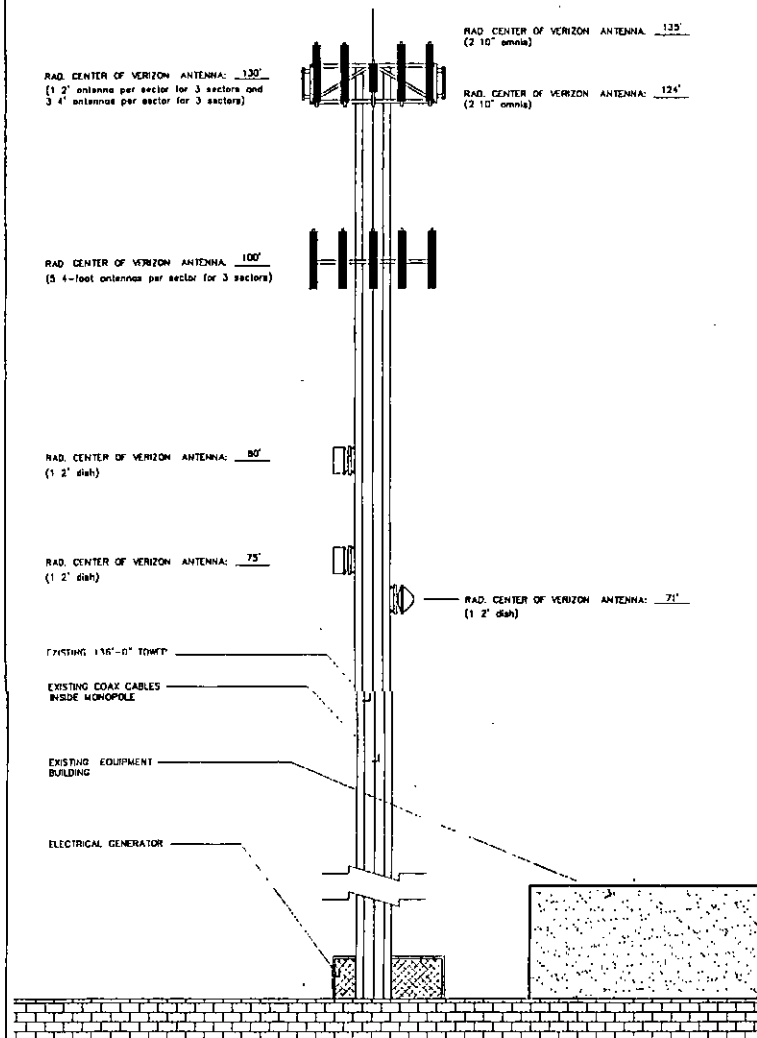
ENLARGED SITE PLAN

PROJECT NUMBER

DRAWING NUMBER

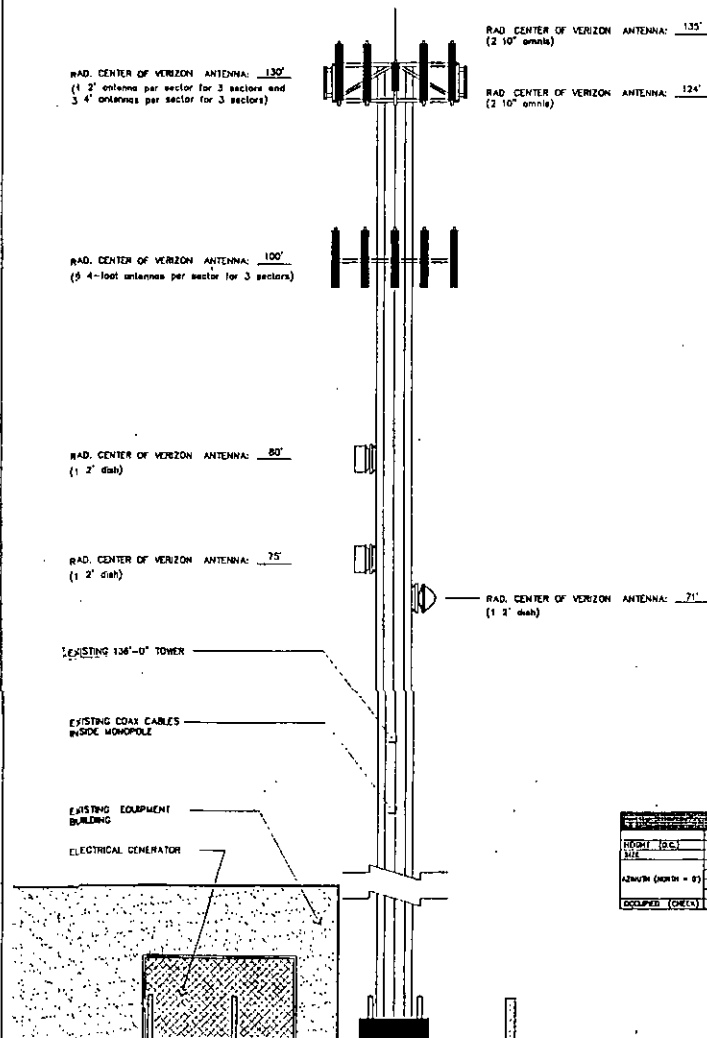
A-2

2/14/01



EAST ELEVATION

SCALE: 1/8\"/>



SOUTH ELEVATION

SCALE: 1/8\"/>

CARRIER		VERIZON	
ANTENNA/MOUNT TYPE/CABLE SCHEDULE			
SECTION	1	2	3
HEIGHT	130'	124'	100'
CABLE SIZE	1/2"	1/2"	1/2"
NUMBER OF CABLES	1	1	1
ANTENNA TYPE	PANEL	PANEL	PANEL
MOUNT TYPE	PLATEMOUNT	PLATEMOUNT	PLATEMOUNT
ANTENNA USE	GENERIC	GENERIC	GENERIC
ANTENNA MODEL	1014	1014	1014
NUMBER OF ANTENNAS	1	1	1

CARRIER		VERSION	
ANTENNA/MOUNT TYPE/CABLE SCHEDULE			
SECTION	1	2	3
HEIGHT	20	100	200
CABLE SIZE	1/2"	1/2"	1/2"
NUMBER OF CABLES	1	1	1
ANTENNA TYPE	PANEL	PANEL	PANEL
MOUNT TYPE	PLATE (H or V) / PANEL (H or V)		
ANTENNA USE	GENERIC	GENERIC	GENERIC
ANTENNA MODEL	(1) + (2) + (3) + (4)	(1) + (2) + (3) + (4)	(1) + (2) + (3) + (4)
NUMBER OF ANTENNAS	3	3	3

CARRIER		VERIZON	
ANTENNA/MOUNT TYPE/CABLE SCHEDULE			
SECTION	7	5	9
HEIGHT		100'	
CABLE SIZE		1/2"	
NUMBER OF CABLES			
ANTENNA TYPE		DISH	
MOUNT TYPE		PLATEMOUNT	
ANTENNA USE		GENERIC	
ANTENNA MODEL		17 DISH	
NUMBER OF ANTENNAS			

CARRIER		VERIZON	
ANTENNA/MOUNT TYPE/CABLE SCHEDULE			
SECTION	70	11	12
HEIGHT	75'	135'	265'
CABLE SIZE	3/8"	7/8"	7/8"
NUMBER OF CABLES	2	2	2
ANTENNA TYPE	PANEL	PANEL	PANEL
MOUNT TYPE	T-ARM (w/ STABILIZERS)		
ANTENNA USE	ALIGN	ALIGN	ALIGN
ANTENNA MODEL	6 PANELS	6 PANELS	6 PANELS
NUMBER OF ANTENNAS	2	2	2

CARRIER		VERIZON	
ANTENNA/MOUNT TYPE/CABLE SCHEDULE			
SECTION	12	14	15
HEIGHT	104'	82'	70'
CABLE SIZE	1/2"	1/2"	1/2"
NUMBER OF CABLES	1	1	1
ANTENNA TYPE	DISH	DISH	
MOUNT TYPE	Pipe	Pipe	Pipe
ANTENNA USE	GENERIC	GENERIC	GENERIC
ANTENNA MODEL	WPT-100	T HP DISH	T DISH
NUMBER OF ANTENNAS			

		ENTRY/EXIT PORTS					
	ENTRY	EXIT	ENTRY	EXIT	ENTRY	EXIT	
HIGH (DC)	0		0				
SIZE	8" x 2"		8" x 2"				
	10"		10"				
	18"		18"				
NUMBER (NORTH = 0)							
OCCUPIED (CHECK)							



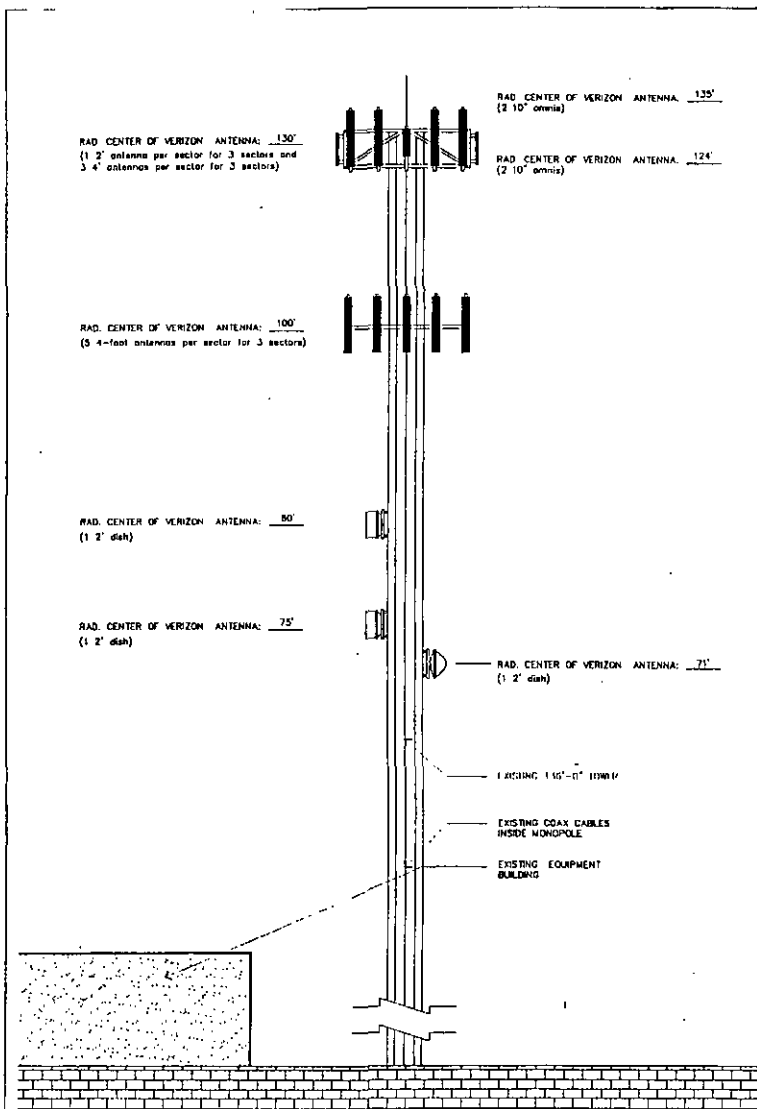
SITE No.: 300547
ID: CA 0066 MOUNT ADA
6426 MT. ADA RD.
SAN DIEGO, CA 92111

NO.	DATE	REVISIONS	BY	CHK	APP'D
1	12-08-05	ISSUED FOR CUP APPLICATION			

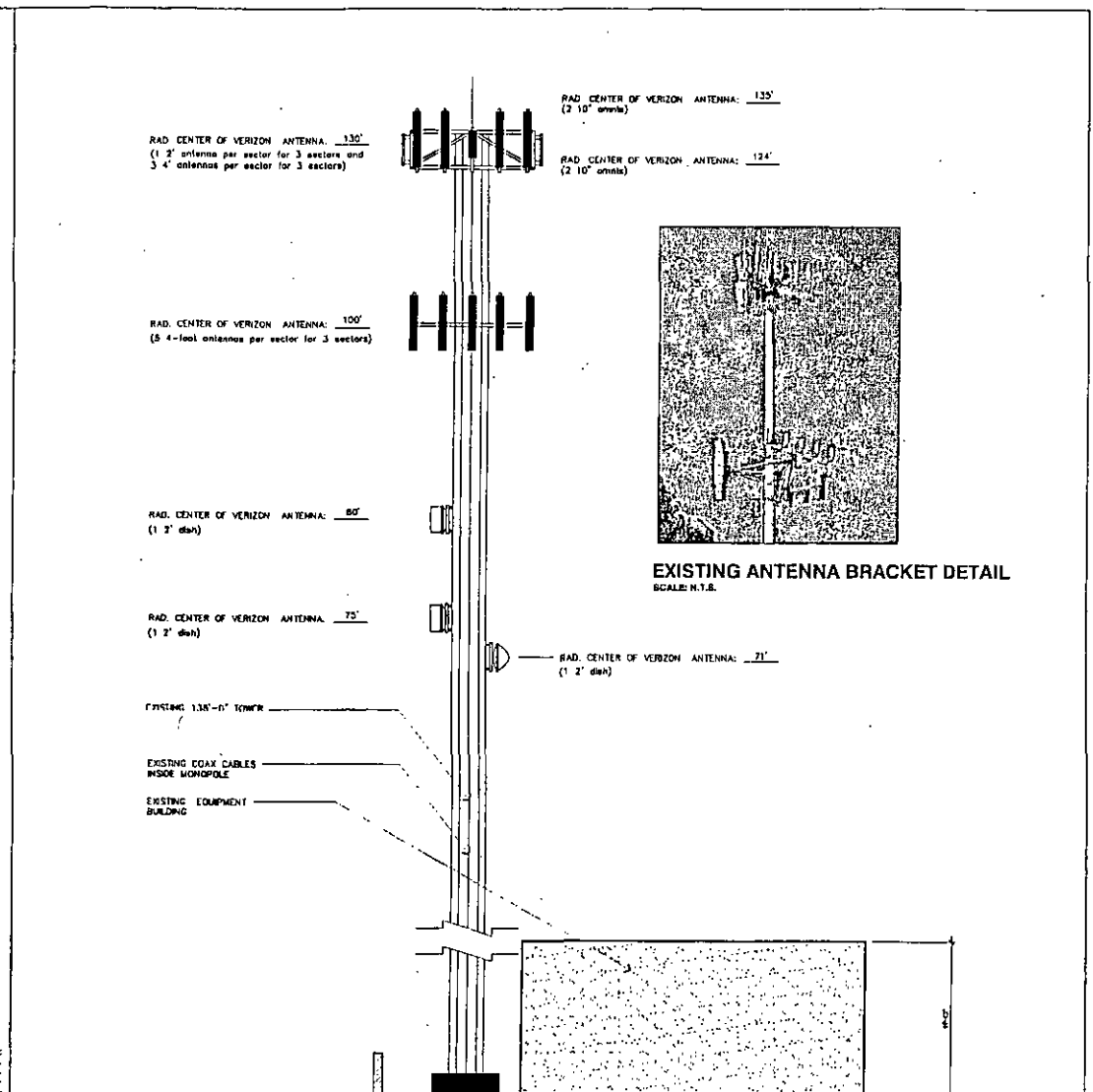
SCALE: AS SHOWN DESIGNER: DRAWN: JOB:

EXTERIOR ELEVATIONS

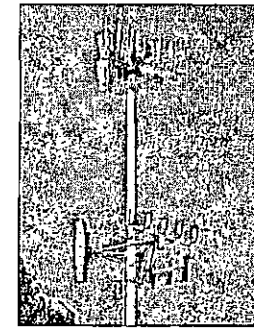
PROJECT NUMBER: A-3
DRAWING NUMBER: A-3



WEST ELEVATION



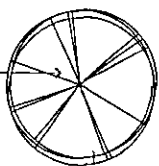
NORTH ELEVATION



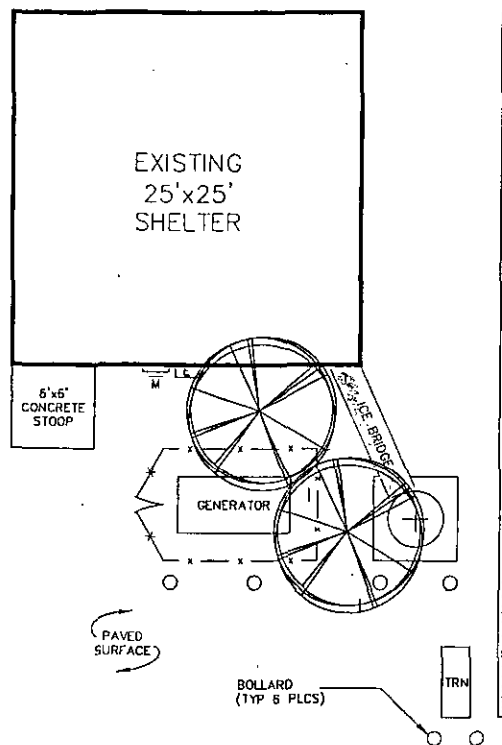
EXISTING ANTENNA BRACKET DETAIL
SCALE N.T.S.

	<p>Basilio Associates, Inc. Architecture + Planning + Design 103 SANDLEY BLVD, SUITE 100, SAN DIEGO, CA 92108 PHONE: (619) 592-1000 FAX: (619) 592-1001</p>	<p>SITE No.: 300647 ID: CA 0066 MOUNT ADA 6426 MT. ADA RD. SAN DIEGO, CA 92111</p>	<p>SCALE: 1/4" = 1'-0"</p>		<p>2</p>	<p>EXTERIOR ELEVATIONS</p>											
			<p>SCALE: 1/4" = 1'-0"</p>		<p>1</p>												
<p>A-17-06-00 ISSUED FOR CUP APPLICATION</p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>REVISIONS</th> <th>BY</th> <th>CHK</th> <th>APPD</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table> <p>SCALE: AS SHOWN DESIGNED - DRAWN: JS</p>			NO.	DATE	REVISIONS	BY	CHK	APPD							<p>PROJECT NUMBER</p>		<p>DRAWING NUMBER</p> <p>A-4</p>
NO.	DATE	REVISIONS	BY	CHK	APPD												

LEGEND:

2 PINE TREES
EXISTING

NOTE:
THE TWO PINE TREES ARE EXISTING ON THE
SITE AS PER CUP No. 83-0629. THERE IS NO
PHYSICAL ROOM FOR ADDITIONAL LANDSCAPE
PLANTS IN THE COMPOUND.



EXISTING LANDSCAPE PLAN



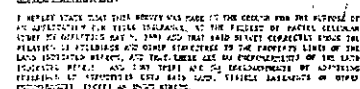
Basilio Associates, Inc.
Architecture + Planning + Design
12 JANAHOFF BLVD SUITE 200 SAN DIEGO, CA 92108
PHONE (619) 737-1000 FAX (619) 737-1010

SITE No.: 300647
ID: CA 0066 MOUNT ADA
6426 MT. ADA RD.
SAN DIEGO, CA 92111

NO.	DATE	ISSUED FOR CUP APPLICATION	BY	CHK.	APP'D.
1	12-08-08	ISSUED FOR CUP APPLICATION			
2		REVISIONS			
3					
4					
5					
6					
7					
8					
9					
10					

SCALE: AS SHOWN DESIGNED: - DRAWN: JB

SCALE: 1" = 10'	1
LANDSCAPE PLAN	
PROJECT NUMBER	DRAWING NUMBER
	L-1







000291



City of San Diego
Development Services
1222 First Ave., MS-302
San Diego, CA 92101
(619) 446-5210

Community Planning Committee Distribution Form Part 2

Project Name : Verizon Mount Ada		Project Number 91178	Distribution Date 12/14/05
Project Scope : CLAIREMONT MESA.. JO # 42-5718 CUP/PDP for a telecommunication facility consisting of a new CUP to allow an existing 136' tall monopole supporting 30 antennas and an adjacent equipment shelter located at 6426 Mt. Ada Road. Old CUP 83-0629. CC-1-3 Height deviation. CD:6 Post 2 notice cards. Old CUP # 83-0629			
Project Location 6426 Mt Ada Rd			
Related Projects			
Project Manager Karen Lynch-Ashcraft		Phone Number 446-5351	Fax Number (619) 446-5245
		E-mail Address KLynchAshcraft@sandiego.gov	
Community Plan: Clairemont Mesa		Council District	
Existing Zone	Proposed Zone	Building Height	Number of Stories
		FAR	
Committee Recommendations (To be completed for Initial Review):			
<input type="checkbox"/> Vote to Approve		Members Yes	Members No
<input type="checkbox"/> Vote to Approve With Conditions Listed Below		Members Yes	Members No
<input type="checkbox"/> Vote to Approve With Non-Binding Recommendations Listed Below		Members Yes	Members No
<input checked="" type="checkbox"/> Vote to Deny		Members Yes 14	Members No 0
<input type="checkbox"/> No Action (Please specify, e.g., Need further information, Split vote, Lack of quorum, etc.)		Members Abstain 0	
		<input type="checkbox"/> Continued	
CONDITIONS:			
NAME Eleanor A. Mang		TITLE Chair, CMPC	
SIGNATURE Eleanor A. Mang		DATE 3/21/06	
Attach Additional Pages If Necessary. Please Return Within 30 Days of Distribution of Project Plans To: Project Management Division City Of San Diego Development Services Department 1222 First Avenue, MS 302 San Diego, CA 92101			

PLANNING COMMISSION
RESOLUTION NO.
CONDITIONAL USE PERMIT NO. 292627
SITE DEVELOPMENT PERMIT NO. 450714
AMERICAN TOWER – MT. ADA
PROJECT NO. 91178

WHEREAS, Buckel Trust, Owner and American Tower Corporation, Permittee, filed an application with the City of San Diego for a permit for a wireless communication facility (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Conditional Use Permit No. 292627 and Site Development Permit No. 450714, on portions of a .19 acre site;

WHEREAS, the project site is located at 6426 Mt. Ada Road in the CC-1-3 zone of the Clairemont Mesa Community Plan;

WHEREAS, the project site is legally described as a portion of Parcel "B" of Parcel Map No. 227, in the City of San Diego, County of San Diego, State of California, filed April 7, 1970 in the Office of the County Recorder of San Diego, California;

WHEREAS, on June 28, 2007, the Planning Commission of the City of San Diego considered Conditional Use Permit No. 292627 and Site Development Permit No. 450714, pursuant to the Land Development Code of the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED by the Planning Commission of the City of San Diego as follows:

That the Planning Commission adopts the following written Findings, dated June 28, 2007.

FINDINGS:

Conditional Use Permit - Section 126.0305

1. The proposed development will not adversely affect the applicable land use plan;

This facility was originally approved by the City Council on November 20, 1984. The Conditional Use Permit (CUP) included a 20 year expiration. At the time of approval, the City did not have applicable regulations for these types of facilities so the City Council imposed a twenty year limit in order to re-evaluate the project in light of new regulations and or policies that may be in effect. The project exists as it did after initial construction and American Tower Corporation is now seeking to obtain another CUP to maintain the facility as is.

Neither the City of San Diego General Plan nor the Clairemont Mesa Community Plan addresses wireless communication facilities as a specific land use.

2. The proposed development will not be detrimental to the public health, safety, and welfare;

The Telecommunication Act of 1996 preempts local governments from regulating the "placement, construction and modification of wireless communication facilities on the basis of the environmental effects of Radio Frequency (RF) emission to the extent that such facilities comply with the Federal Communication Commission's (FCC) standards for such emissions." If the decision maker approves the existing facility, a condition will be included within the permit to require American Tower to perform a cumulative model RF test and submit the finding in a report to the City of San Diego within 90 days of approval of the CUP/SDP.

3. The proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code; and

This facility was originally approved by the City Council on November 20, 1984. The Conditional Use Permit (CUP) included a 20 year expiration. At the time of approval, the City did not have applicable regulations for these types of facilities so the City imposed a ten year time limit in order to re-evaluate the project in light of new regulations and or policies that may be in effect. The project exists as it did after initial construction and American Tower Corporation is now seeking to obtain another CUP to maintain the facility as is.

Since 2000, the City has had a Communication Antenna ordinance that requires architectural or environmental integration with the project site. Pursuant to the San Diego Land Development Code, wireless communication facilities are permitted in all zones citywide with the appropriate permits. Wireless communication facilities are separately regulated uses, which have limitations or require compliance with conditions in order to minimize potential impacts. The intent of the regulations is to camouflage facilities from public view. In this case, the monopole is the tallest structure in and around the area in which it is located and as such, it has an incongruous effect on the community's landscape. It is situated on the edge of a commercial area directly across the street from multi-unit residential with a large single unit residential subdivision beyond. Additionally, the tower is located in a commercial core area of the community, adjacent to a major east west thoroughfare. The tower poses an unsightly visual impact that can be seen from the surrounding residential communities and major thoroughfares.

Section 141.0405 of the Land Development Code differentiates between minor and major telecommunication facilities. Minor telecommunication facilities include those that are concealed from public view or integrated into the architecture or surrounding environment through architectural enhancement (enhancements that complement the scale, texture, color and style) unique design solutions, or accessory use structures. Major telecommunication facilities are antenna facilities that do not meet the criteria for minor telecommunication facilities or they are located in residential zones containing residential uses. Similar to minor facilities, they also need to be designed to be minimally visible through the use of architecture, landscape architecture and siting solutions. The Mt. Ada project does not conform to this code requirement. As it exists, the tower is a significant visual impact to the community of Clairemont.

Therefore, the project does not comply to the maximum extent feasible with the regulations of the Land Development Code.

4. The proposed use is appropriate at the proposed location.

A wireless communication facility at this location is an appropriate use subject to compliance with the ordinances and policies that regulate telecommunication facilities. Due to the fact that the existing facility does not comply with current regulations and policies, this finding cannot be affirmed. A facility that better integrates into the property and takes into consideration the surroundings including the proximity to the large nearby residential community as well as the commuters driving through this part of Clairemont would be more appropriately located on this property.

Site Development Permit - Section 126. 0504

1. The proposed development will not adversely affect the applicable land use plan;

This facility was originally approved by the City Council on November 20, 1984. The Conditional Use Permit (CUP) included a 20 year expiration. At the time of approval, the City did not have applicable regulations for these types of facilities so the City Council imposed a ten year limit in order to re-evaluate the project in light of new regulations and or policies that may be in effect. The project exists as it did after initial construction and the new owner, American Tower Corporation is now seeking to obtain another CUP to maintain the facility as is.

Neither the City of San Diego General Plan nor the Clairemont Mesa Community Plan addresses wireless communication facilities as a specific land use.

2. The proposed development will not be detrimental to the public health, safety, and welfare; and

The Telecommunication Act of 1996 preempts local governments from regulating the "placement, construction and modification of wireless communication facilities on the basis of the environmental effects of Radio Frequency (RF) emission to the extent that such facilities comply with the Federal Communication Commission's (FCC) standards for such emissions." If the decision maker approves the existing facility, a condition will be included within the permit to require American Tower to perform a cumulative model RF test and submit the finding in a report to the City of San Diego within 90 days of approval of the CUP/SDP.

3. The proposed development will comply with the applicable regulations of the Land Development Code.

The monopole complies with all the development regulations of the CC-1-3 zone, but does not comply with the Clairemont Mesa Height Limitation Overlay Zone of 30 feet. The monopole is 145 feet tall and is extremely visible to the Balboa Avenue corridor and the surrounding residential community. Development in the area is low in scale. The tower is located in a commercial zone that is immediately adjacent to a multi-unit residential complex.. The existing tower exceeds the height limit by 115 feet. Deviations to the Clairemont Mesa Height Limitation Overlay Zone require a Site Development Permit.

This project was originally constructed in the mid-1980's when Pac Tel Mobile (now Verizon) was only one of two wireless carriers in San Diego. Their network was being established with tower structures and later branched out to building collocations. Initially, carriers built tall facilities, later filling in their networks with lower sights. Verizon signed the contract (CUP 83-0629) acknowledging the 20 year time limit on the facility. In order to maintain a facility at this site, a new application in compliance with the current regulations and policies would be required.

Supplemental Site Development Findings – Section 126.0504(j)

- 1. The granting of an exception will not significantly interfere with public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean within the surrounding area; and**

The Mt. Ada project is not located near Mission Bay or the surrounding areas and as a result, it will not interfere with public views to these areas. It is located east of Mission Bay in the Balboa Genesee commercial corridor and it creates a significant visual impact to the community surrounding this area.

- 2. The granting of an exception is appropriate because there are existing structures over 30 feet in height and the proposed development will be compatible with surrounding one, two, or three-story structures; or the granting of an exception is appropriate because there are topographic constraints peculiar to the land; or the granting of the exception is needed to permit roofline and facade variations, accents, tower elements, and other similar elements and the elements will not increase the floor area of the structure.**

The topography is flat along the Balboa Genesee commercial corridor and the majority of structures in the area are low scale and do not exceed the 30 foot height limit. This tower is 115 feet above the 30 foot height limit and as such, poses a significant visual impact to the surrounding community. It stands out against the existing landscape and is therefore incompatible with the surrounding development. The only other structure of this stature is a 10 story building approximately .62 miles to the west of this site with a roof top full of antennas managed by American Tower Corporation. Therefore, granting an exception to the Clairemont Mesa Height Limitation Overlay Zone is inappropriate.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Conditional Use Permit No. 292627 and Site Development Permit No. 450714 is hereby DENIED by the Planning Commission.

Karen Lynch-Ashcraft
Development Project Manager
Development Services

Adopted on: June 28, 2007
Job Order No. 42-5718

SDI-A.C
CONDITIONAL USE PERMIT
NO. 83-0629
CITY COUNCIL

This Conditional Use Permit is granted by the City Council of The City of San Diego to PACTEL MOBILE ACCESS, a Delaware Corporation, Owner/Permittee, under the conditions in Section 101.0507 of the Municipal Code of The City of San Diego.

1. Permission is granted to Owner/Permittee to construct and operate a communication facility consisting of an equipment building and antenna tower located on the north side of Mt. Ada Road between Mt. Rias Place and Mt. Albertine Avenue, more particularly described a Portion of Parcel B, Parcel Map 227, in the CA Zone.

2. The facility shall consist of the following:

- a. A 26-foot by 22-foot equipment building and a 145-foot-high antenna tower for frequency reception and transmission. The color of the pole shall be cool medium-light gray;
- b. Off-street parking for service personnel; and
- c. Accessory uses as may be determined incidental and approved by the Planning Director.

3. Not less than two off-street parking spaces shall be maintained on the property in the approximate location shown on Exhibit "A," dated October 25, 1984, on file in the office of the Planning Department. Parking spaces shall be consistent with Division 8 of the Municipal Code and shall be permanently maintained and not converted for any other use. Parking spaces and aisles shall conform to Planning Department standards. Parking areas shall be marked:

4. No permit for construction of the expanded facility shall be granted nor shall any activity authorized by this permit be conducted on the premises until:

- a. The Permittee signs and returns the amended permit to the Planning Department; and
- b. The Conditional Use Permit is recorded in the office of the County Recorder.

5. Before issuance of any building permits, complete building plans shall be submitted to the Planning Director for approval. Plans shall be in substantial conformity to Exhibit "A," dated October 25, 1984, on file in the office of the Planning Department. No change, modifications or alterations shall be made unless appropriate applications for amendment of this permit shall have been granted.

6. Before issuance of any building permits, a complete landscape plan, including a permanent irrigation system, shall be submitted to the Planning Director for approval. The plans shall be in substantial conformity to Exhibit "A," dated October 25, 1984, on file in the office of the Planning Department. Approved planting shall be installed before issuance of any occupancy permit on any building. Such planting shall not be modified or altered unless this permit has been amended. Specific plant species shall be identified on final landscaping plans and shall be subject to Planning Director approval.

7. All outdoor lighting shall be so shaded and adjusted that the light is directed to fall only on the same premises as light sources are located and not reflect onto adjacent properties.

8. This Conditional Use Permit must be used within 36 months after the date of City approval or the permit shall be void. An Extension of Time may be granted as set forth in Section 101.0506 and 101.0507 of the Municipal Code. Such extension of time shall be subject to all regulations in force at the time of the extension.

9. After establishment of the amended project, the property shall not be used for any other purposes unless:

- a. Authorized by the City Council; or
- b. The proposed use meets every requirement of the zone existing for the property at the time of conversion; or
- c. The permit has been revoked by the City.

10. This Conditional Use Permit may be revoked by the City if there is a material breach or default in any of the conditions of this permit.

11. This Conditional Use Permit is a covenant running with the lands and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out.

000299

12. This permit shall expire 20 years from the date of approval. If an extension is requested, the operation and conditions shall be reviewed at public hearings by the Planning Commission and City Council. 11/20/04

13. In the event that additional cellular mobile phone communication systems are needed in the future that would require a transmitting tower or towers in the vicinity of this approved facility, the permittee shall allow the installation of antennas on the tower authorized by this permit and the installation of necessary support equipment on the premises if the applicant for such additional antennae and support equipment shows that the operation thereof would not interfere with the operation of the permittee's antennae and support equipment and the co-location of such antennae and support equipment are otherwise technically feasible and compatible, and such additional antennae and support equipment are approved by The City of San Diego following a noticed public hearing on the matter.

ADOPTED BY THE COUNCIL OF THE CITY OF SAN DIEGO THIS 20TH DAY OF NOVEMBER, 1984.

000300

ATTACHMENT H-9

Passed and adopted by the Council of The City of San Diego on

November 20, 1984

by the following votes:

YEAS: Mitchell, McColl, Jones, Struiksma, Gotch, Hedgecock.

NAYS: None.

NOT PRESENT: Cleator, Murphy, Martinez.

AUTHENTICATED BY:

ROGER HEDGECOCK

Mayor of The City of San Diego, California

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California

By BARBARA BAXTER

Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of RESOLUTION NO. R- 262003 passed and adopted by the Council of The City of San Diego, California, on November 20, 1984.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California

(SEAL)

By

Barbara Baxter

Deputy

(Rev. 5/83)

bb

000301

ATTACHMENT H-9

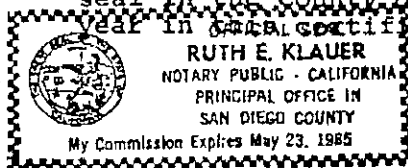
AUTHENTICATED BY:

Roger Hedgecock
Mayor of The City of San Diego
Charles G. Abdelnour
City Clerk of The City of San Diego

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)

On this 13th day of February, 1985, before me, the undersigned, a notary public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared ROGER HEDGECOCK, known to me to be the Mayor, and CHARLES G. ABDELNOUR, known to me to be the City Clerk of The City of San Diego, the municipal corporation that executed the within instrument, and known to me to be the persons who executed the within instrument on behalf of the municipal corporation therein named, and acknowledged to me that such municipal corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal in the County of San Diego, State of California, the day and year in said certificate first above written.



Ruth E. Klauer
Notary Public in and for the County
of San Diego, State of California

The undersigned Permittee, by execution hereof, agrees to each and every condition of this Conditional Use Permit and promises to perform each and every obligation of Permittee hereunder.

PACTEL MOBEL ACCESS, INC.
a Delaware corporation

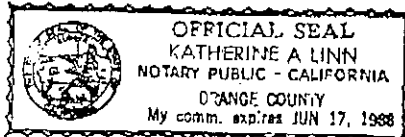
By [Signature]

NOTE: NOTARY ACKNOWLEDGEMENTS MUST
BE ATTACHED PER CIVIL CODE,
SEC. 1180 et seq.

CORPORATE ACKNOWLEDGMENT

NO. 202

State of California }
 County of Orange } ss.



On this the 31st day of January 19 85, before me,

Katherine A. Linn
 the undersigned Notary Public, personally appeared

Donn A. Winslow

☒ personally known to me
☐ ~~provided with the basis of satisfactory evidence~~
 to be the person(s) who executed the within instrument as
for on behalf of the corporation therein
 named, and acknowledged to me that the corporation executed it.
 WITNESS my hand and official seal.

Katherine A. Linn
 Notary's Signature

7120 122

Conditional Use Permit - 83-0629

NATIONAL NOTARY ASSOCIATION - 23012 Ventura Blvd. - P.O. Box 4625 - Woodland Hills, CA 91364



000303

THE CITY OF SAN DIEGO

Date of Notice: June 14, 2007

NOTICE OF PUBLIC HEARING PLANNING COMMISSION RECOMMENDATION

DATE OF HEARING: June 28, 2007
TIME OF HEARING: 9:00 A.M.
LOCATION OF HEARING: Council Chambers, 12th Floor, City Administration Building,
202 C Street, San Diego, California

PROJECT TYPE: Conditional Use Permit/Site Development Permit
PROJECT NUMBER: 91178
PROJECT NAME: AMERICAN TOWER – MT. ADA
APPLICANT: Jim Kelly, American Tower Corporation

COMMUNITY PLAN AREA: Clairemont Mesa

COUNCIL DISTRICT: District 6

CITY PROJECT MANAGER: Karen Lynch-Ashcraft, Development Project Manager
PHONE NUMBER: (619) 446-5351

As a property owner, tenant or person who has requested notice, you should know that the Planning Commission will hold a public hearing to **recommend** approval, conditional approval, or denial to the City Council for a wireless communication facility consisting of an existing, expired 145 foot high monopole and a 625 square foot equipment shelter, originally approved by CUP No. 83-0629, which expired on November 20, 2004. The facility is located at 6426 Mt. Ada Road between Mt. Rias Place and Mt. Albertine Avenue.

The decision to approve, conditionally approve, modify or deny the wireless communication facility will be made by the City Council at a future public hearing. You will also receive a notice of the City Council public hearing.

If you have any questions after reviewing this information, you can contact the City Project Manager listed above.

This information will be made available in alternative formats upon request. To request an agenda in alternative format or to request a sign language or oral interpreter for the meeting, call the Disability Services

000304

ATTACHMENT H-10

Program Coordinator at (619) 236-5979 at least five working days prior to the meeting to insure availability.
Assistive Listening Devices (ALD's) are available for the meeting upon request.

Job Order No. 42-5718

Revised 11/02/04 dcj
document1



City of San Diego
Development Services
1222 First Ave., MS-302
San Diego, CA 92101
(619) 446-5000

Ownership Disclosure Statement

Approval Type: Check appropriate box for type of approval (s) requested: ☐ Neighborhood Use Permit ☐ Coastal Development Permit
☐ Neighborhood Development Permit ☐ Site Development Permit ☐ Planned Development Permit ☐ Conditional Use Permit
☐ Variance ☐ Tentative Map ☐ Vesting Tentative Map ☐ Map Waiver ☐ Land Use Plan Amendment • ☐ Other _____

Project Title

Project No. For City Use Only

EXISTING WIRELESS TELECOMMUNICATIONS FACILITY

Project Address:

6426 MT ADA RD / APT 419-120-67-00

Part I - To be completed when property is held by individual(s)

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property, with the intent to record an encumbrance against the property. Please list below the owner(s) and tenant(s) (if applicable) of the above referenced property. The list must include the names and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all individuals who own the property). A signature is required of at least one of the property owners. Attach additional pages if needed. A signature from the Assistant Executive Director of the San Diego Redevelopment Agency shall be required for all project parcels for which a Disposition and Development Agreement (DDA) has been approved / executed by the City Council. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Additional pages attached ☐ Yes ☐ No

Name of Individual (type or print):

HARRY R. BUCKEL TRUSTEE
☒ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency
10313 Boulder Creek Rd

Street Address:
DESCANSO Calif. 91916

City/State/Zip:
619-445 2238

Phone No: Harry R. Buckel Trustee 11/25/05
Signature: Date:

for The Buckel Trust

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No: Fax No:

Signature: Date:

Name of Individual (type or print):

JOAN D BUCKEL, TRUSTEE
☒ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency
10313 Boulder Creek Rd

Street Address:
DESCANSO Calif 91916

City/State/Zip:
619-445 2238

Phone No: Joan D. Buckel Trustee 11/25/05
Signature: Date:

for The Buckel Trust

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No: Fax No:

Signature: Date:

San Diego Municipal Code Chapter 14: General Regulations
(12-2001)

§141.0405 Communication Antennas

- (a) Section 141.0405 regulates the following communication antennas. Amateur (HAM) radio facilities or temporary telecommunication facilities necessitated by natural or man-made disasters are not regulated as communication antennas. Section 141.0405 does not apply to single dish antennas smaller than 24 inches in diameter or to remote panel antennas less than 24 inches in length and in width, except when associated with another telecommunication facility.
- (1) Minor telecommunication facilities: Antenna facilities used in wireless telephone services, paging systems, or similar services that comply with all development regulations of the underlying zone and overlay(s) and that meet the criteria in Section 141.0405(e)(1) or (2).
 - (2) Major telecommunication facilities: Antenna facilities that do not meet the criteria for minor telecommunication facilities in Section 141.0405(e)(1) or (2).
 - (3) Satellite antennas: Antennas capable of transmitting or receiving signals to or from a transmitter or a transmitter relay located in a planetary orbit. Satellite antennas include satellite earth stations, television-reception-only satellite antennas, and satellite microwave antennas.
- (b) General Rules for Telecommunication Facilities
All telecommunication facilities must comply with the following requirements:
- (1) All approved telecommunication facilities must comply with the Federal standards for RF radiation in accordance with the Telecommunication Act of 1996 or any subsequent amendment to the Act pertaining to RF radiation. Documentation shall be submitted to the City providing evidence that the cumulative field measurements of radiofrequency power densities for all antennas installed on the *premises* are below the Federal standards.
 - (2) Except in the event of an emergency, routine maintenance and inspection of telecommunication facilities located on residentially zoned *premises*, including all of the system components, shall occur during normal business hours between 8:00 a.m. and 5:00 p.m. Monday through Friday.

- (3) Antenna facilities or associated equipment proposed for installation in the *public right-of-way* are subject to the following regulations:
- (A) Antennas or associated equipment located in *public right-of way* which is adjacent to a residentially zoned *premises* may be permitted with a Neighborhood Use Permit.
 - (B) Antennas and associated equipment located in the *public right of-way* adjacent to non-residentially zoned *premises* are subject to review and approval by the City Manager.
 - (C) All equipment associated with antenna facilities shall be undergrounded, except for small services connection boxes or as permitted in Section 141.0405(b)(4).
 - (D) A construction plan must be submitted to and is subject to review and approval by the City Engineer in accordance with Chapter 6, Article 2.
- (4) Antennas and associated equipment located in the *public right-of-way* may be placed above ground only if the equipment is integrated into the architecture or surrounding environment through architectural enhancement (enhancements that complement the scale, texture, color, and style), unique design solutions, enhanced landscape architecture, or complementary siting solutions to minimize visual or pedestrian impacts. These facilities may be permitted with a Conditional Use Permit decided in accordance with Process Three.
- (c) Temporary facilities that provide services to public events and are limited to a one-time maximum duration of 90 calendar days are subject to the temporary use permit procedures in Chapter 12, Article 3, Division.4.
- (d) All telecommunication facilities that are required to obtain encroachment authorization to locate on city-owned dedicated or designated parkland or open space areas shall comply with the following:
- (1) The City Manager shall determine that the proposed facility would not be detrimental to the City's property interest; would not preclude other appropriate uses; would not change or interfere with the use or purpose of the parkland or open space; and would not violate any deed restrictions related to City property, map requirements or other land use regulations.
 - (2) The proposed facility shall be integrated with existing park facilities or open space; shall not disturb the environmental integrity of the parkland or open space; and shall be disguised such that it does not

detract from the recreational or natural character of the parkland or open space.

- (3) The proposed facility shall be consistent with The City of San Diego Progress Guide and General Plan.

(e) Minor Telecommunication Facilities

Minor telecommunication facilities are permitted as a limited use or may be permitted with a Neighborhood Use Permit in the zones indicated with an "L" or an "N", respectively, in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (1) An antenna facility will be considered a minor telecommunication facility if the facility, including equipment and *structures*, is concealed from public view or integrated into the architecture or surrounding environment through architectural enhancement (enhancements that complement the scale, texture, color, and style), unique design solutions, or *accessory use structures*.
- (2) In an effort to encourage collocation and to recognize that some telecommunication facilities are minimally visible, the following shall be considered minor telecommunication facilities:
 - (A) Additions or modifications to telecommunication facilities that do not increase the area occupied by the antennas or the existing antenna enclosure by more than 100 percent of the originally approved facility and do not increase the area occupied by an outdoor equipment unit more than 150 feet beyond the originally approved facility, if the additions and modifications are designed to minimize visibility.
 - (B) Panel-shaped antennas that are flush-mounted to an existing *building facade* on at least one edge, extend a maximum of 18 inches from the *building facade* at any edge, do not exceed the height of the building, and are designed to blend with the color and texture of the existing building.
 - (C) Whip antennas if the number of antennas that are visible from the *public right-of-way* does not exceed six, if the antennas measure 4 inches or less in diameter, and if they have a mounting apparatus that is concealed from public view.
- (3) Minor telecommunication facilities are not permitted in the following locations:

- (A) On *premises* that are developed with residential uses in residential zones;
 - (B) On vacant *premises* zoned for residential development;
 - (C) On *premises* that have been designated as *historical resources*;
 - (D) On *premises* that have been designated or mapped as containing sensitive resources;
 - (E) On *premises* within the *MHPA*; or
 - (F) On *premises* that are leased for billboard use.
- (4) The installation of a minor telecommunication facility shall not result in the elimination of required parking spaces.
 - (5) Minor telecommunication facilities that terminate operation shall be removed by the operator within 90 calendar days of termination.

(f) Major Telecommunication Facilities

Major telecommunication facilities may be permitted with a Conditional Use Permit decided in accordance with Process Three, except that major telecommunication facilities on dedicated or designated parkland and open space may be permitted with a Conditional Use Permit decided in accordance with Process Five, in the zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (1) Major telecommunication facilities are not permitted in the following locations:
 - (A) On *premises* containing designated *historical resources*;
 - (B) Within viewsheds of designated and recommended State Scenic Highways and City Scenic Routes; or
 - (C) Within ½ mile of another major telecommunication facility, unless the proposed facility will be concealed from public view or integrated into the architecture or surrounding environment through architectural enhancement (enhancements that complement the scale, texture, color, and style), unique design solutions, and *accessory use structures*.
 - (D) Within the Coastal Overlay Zone, on *premises* within the

MHPA and/or containing *steep hillsides* with *sensitive biological resources*, or within public view corridors or view sheds identified in applicable *land use plans*.

- (2) Major telecommunication facilities shall be designed to be minimally visible through the use of architecture, landscape architecture, and siting solutions.
- (3) Major telecommunication facilities shall use the smallest and least visually intrusive antennas and components that meet the requirements of the facility.

(g) Satellite Antennas

Satellite antennas are permitted as a limited use subject to Section 141.0405(g)(2), and may be permitted with a Neighborhood Use Permit subject to Section 141.0405(g)(3), or with a Conditional Use Permit decided in accordance with Process Three subject to Section 141.0405(g)(4).

- (1) Exemption. Satellite antennas that are 5 feet in diameter or smaller are permitted in all zones and are exempt from this section.
- (2) Limited Use Regulations. Satellite antennas that exceed 5 feet in diameter are permitted as a limited use in the zones indicated with an "L" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.
 - (A) Satellite antennas are not permitted within the *MHPA*.
 - (B) Satellite antennas are not permitted on *premises* that have been designated as *historical resources*.
 - (C) Satellite antennas shall not exceed 10 feet in diameter.
 - (D) Ground-mounted satellite antennas shall not exceed 15 feet in *structure height*.
 - (E) Ground-mounted satellite antennas shall not be located in the *street yard*, *front yard*, or *street side yard* of a *premises*.
 - (F) Satellite antennas shall not be light-reflective.
 - (G) Satellite antennas shall not have any *sign copy* on them nor shall they be illuminated.
 - (H) Ground-, roof-, and pole-mounted satellite antennas shall be

screened by fencing, buildings, or parapets that appear to be an integral part of the building, or by landscaping so that not more than 25 percent of the antenna height is visible from the *grade* level of adjacent *premises* and adjacent *public rights-of-way*.

- (3) Neighborhood Use Permit Regulations. Proposed satellite antennas that do not comply with Section 141.0405(b)(2) may be permitted with a *Neighborhood Use Permit* subject to the following regulations.

- (A) Satellite antennas are not permitted within the *MHPA*.
- (B) Satellite antennas are not permitted on *premises* that have been designated as *historical resources*.
- (C) Satellite antennas shall not exceed 10 feet in diameter.
- (D) Satellite antennas shall not be light-reflective.
- (E) Satellite antennas shall not have any *sign copy* on them nor shall they be illuminated.
- (F) The visual impacts of the antenna to adjacent *premises* and adjacent *public rights-of-way* shall be minimized by the positioning of the antenna on the site and the use of landscape or other *screening*.

- (4) Conditional Use Permit Regulations. Except for proposed satellite antennas which are *accessory uses* in industrial zones, proposed satellite antennas that exceed 10 feet in diameter may be permitted only with a Conditional Use Permit decided in accordance with Process Three subject to the following regulations.

- (A) Satellite antennas are not permitted within the *MHPA*.
- (B) Satellite antennas are not permitted on *premises* or its appurtenances that have been designated as *historical resources*.
- (C) The visual impacts of the antenna to adjacent *premises* and adjacent *public rights-of-way* shall be minimized by the positioning of the antenna on the site and the use of landscaping or other *screening*.
(Amended 1-9-2001 by O-18910 N.S.; effective 8-8-2001.)

§ 101.0506.1 Requirements for Processing Conditional Use Permits and Reclamation Plans for Natural Resources Development

(Renumbered to Sec. 101.0511 on 6-23-86 by O-16671 N.S.)

§ 101.0506.3 Conditional Use Permits for Companion Units

(Renumbered to Sec. 101.0512 on 6-23-86 by O-16671 N.S.)

§ 101.0506.5 Exclusion of Companion Units

(Repealed (incorporated into Sec. 101.0512) 6-23-86 by O-16671 N.S.)

§ 101.0506.7 Conditional Use Permit for Treatment and Counseling Offices for Sex Offenders

(Renumbered to Sec. 101.0513 on 6-23-86 by O-16671 N.S.)

§ 101.0506.8 Moved Buildings Defined

(Repealed (incorporated into Sec. 101.0514) 6-23-86 by O-16671 N.S.)

§ 101.0506.9 Conditional Use Permit For Moved Buildings

(Renumbered to Sec. 101.0514 on 6-23-86 by O-16671 N.S.)

§ 101.0507 Conditional Use Permit Granted by City Council

(Repealed (incorporated into Sec. 101.0510 with amendments) 6-23-86 by O-16671 N.S.)

§ 101.0507.1 Appeal to the City Council from Decision of the Board of Zoning Appeals

(Added 6-8-65 by O-9236 N.S.; amended 4-25-67 by O-9618 N.S.; repealed (now Sec. 101.0505) 2-4-71 by O-10494 N.S.)

§ 101.0508 Failure to Utilize Zone Variance or Conditional Use Permit or Failure to Conform to or Comply with Conditions

(Repealed (incorporated into Sec. 101.0510 with amendments) 6-23-86 by O-16671 N.S.)

§ 101.0509 Cancellation of a Conditional Use Permit

(Repealed (incorporated into Sec. 101.0510 with amendments) 6-23-86 by O-16671 N.S.)

§ 101.0510 Conditional Use Permit

A. PURPOSE AND INTENT

Certain classes of land use are not permitted by right in some or all zones of the City, but are nevertheless recognized as being desirable to the full function of the City under appropriate circumstances. It is the purpose of the Conditional Use Permit regula-

tions to provide a means whereby proposals for such land uses may be examined on a case by case basis to determine whether, and under what conditions, these uses may be approved at a given site.

It is intended that when these classes of land use are approved, each proposal will be developed so as to fully protect the health, safety, and general welfare of all persons who live or work in the area. It is further intended that proposals developed under a Conditional Use Permit will incorporate the highest standards in site planning, architecture, environmental protection, and sensitivity to the neighborhood character.

It is intended that in exchange for the development and land use privileges extended under a Conditional Use Permit, the permittee will agree to abide by all conditions which the City may require. It is intended that both these privileges and conditions shall constitute a covenant which runs with the lands, and in addition to binding the permittee shall likewise bind each successor in interest.

This section identifies those classes of land use for which a Conditional Use Permit may be granted and establishes the legal framework for the administration of permits.

B. DECISION MAKER

Conditional Use Permits may be granted by the following Decisionmakers: "Hearing Officer", Development Services Director, Planning Commission, and City Council. In addition, Conditional Use Permits may be granted by the following Appeal Bodies, acting as provided herein as appellate Decisionmakers: Board of Zoning Appeals, Planning Commission, and City Council.

C. USES WHICH MAY BE CONSIDERED

1. "Hearing Officer" as Decisionmaker With Appeal to either the "Board of Zoning Appeals" or the "Planning Commission."

Unless otherwise specified in this Municipal Code, an application for a Conditional Use Permit for the uses listed in Section 101.0510(C) (1), in any zone, including interim zones, may be approved, conditionally approved or denied by a "Hearing Officer" in accordance with "Process Three." The "Hearing Officer's" decision may be appealed to either the "Board of Zoning Appeals" or the "Planning Commission" in accordance with Section 111.0506.

a. Churches, temples or buildings of a permanent nature, used primarily for religious purposes, except in A-1 zoned areas of the Coastal Zone subject to the FPF (Floodplain Fringe) Overlay Zone.

b. Commercial uses associated with agriculture in the Future Urbanizing area including, but not limited to: agricultural sales and services, animal sales and service (including hay, feed and tack), equestrian-related sales and services, and nursery sales and services.

c. Community identification signs (the permit may be granted by the Sign Code Administrator).

d. Electric distribution, gas regulating, and communications switching stations not involving aerial transmissions, which serve the immediate area, pro-

000311

vided all equipment is located within a building.

e. Except as provided in paragraph 2.a. hereof, establishments which dispense, for sale or other consideration, alcoholic beverages, including beer, wine, and distilled spirits within the area shown on Map C-721, on file in the office of the City Clerk as Document No. OO-16715, subject to the requirements of SEC. 101.0515.

f. Guest quarters in any single-family residential zone.

g. Impound storage yards, provided they are located in the CA-RR or any less restrictive commercial zone.

h. Lights for illuminating tennis courts and similar lighting, except in the Future Urbanizing area.

i. Mobile homes for use by watchmen in any zone.

j. Moved buildings pursuant to SEC. 101.0514.

k. Elementary schools, and child care facilities serving children, except in the A-1 zoned areas of the Coastal Zone subject to the FPF (Floodplain Fringe) overlay zone or in the Future Urbanizing Area. Child care centers in all residential zones subject to the standards of Section 101.0580 (Child Care Facilities), subsection E. Requests for deviations from the requirements of subsection E.5. of Section 101.0580 shall be evaluated based upon a Health Risk Assessment Study submitted by the applicant.

l. Outdoor storage and display of new, unregistered motor vehicles, except in the A-1 zoned areas of the Coastal Zone or in the Future Urbanizing area.

m. Parking facilities, except in the A-1 zoned areas of the Coastal Zone or in the Future Urbanizing area. (Note: See Subparagraph 3., Planning Commission as Decisionmaker.)

n. Private clubs, lodges and fraternal organizations except fraternities and sororities. Private clubs, lodges, and fraternal organizations shall not be permitted in A-1 zoned areas of the Coastal Zone subject to the FPF (Floodplain Fringe) overlay zone or in the Future Urbanizing area. The prohibition against lodges and lodging facilities within the Future Urbanizing area in Section 101.0510 C.1.n. and Section 101.0510 C.3.o. of the Municipal Code shall not be applicable to any application which was submitted to the City prior to December 10, 1990, for a Conditional Use Permit to implement nonprofit lodges in that portion of the Future Urbanizing area located outside of the City's Local Coastal Program nor to any application for a Conditional Use Permit for nonprofit lodge(s) in connection with proposed development of a golf course in Subarea 1A of North City Future Urbanizing Area Framework Plan.

o. Residential care facilities, as defined in Section 101.0101.96 for not more than twelve persons in any zone which otherwise permits residential use, subject to the development standards and locational criteria of Section 101.0581, except in A-1 zoned areas of the Coastal Zone subject to the FPF (Floodplain Fringe) overlay zone or in the Future Urbanizing area.

p. Rotating and revolving signs pursuant to SEC. 101.1117.1, except in the Future Urbanizing area

(the permit may be granted by the Sign Code Administrator).

q. Solar systems for individual or joint use where otherwise not permitted.

r. Tandem parking for assigned employee parking spaces or valet parking associated with restaurant use, pursuant to SEC. 101.0821.

s. Teaching of the fine arts including, but not limited to music, drawing, painting, sculpture, drama and dancing, except in the A-1 zoned areas of the Coastal Zone subject to the FPF (Floodplain Fringe) overlay zone or in the Future Urbanizing area.

t. Theater marquee signs pursuant to Section 101.1118.1, except in the Future Urbanizing area (the permit may be granted by the Sign Code Administrator).

u. Veterinary clinics and veterinary hospitals in any commercial industrial or agricultural zone, except in the A-1 zoned areas of the Coastal Zone subject to the FPF (Floodplain Fringe) overlay zone or in the Future Urbanizing area.

2. "Hearing Officer" as Decisionmaker with appeal to the Planning Commission.

Unless otherwise specified in this Municipal Code, an application for a Conditional Use Permit for the uses listed in Section 101.0510(C) (2), in any zone, including interim zones, may be approved, conditionally approved, or denied, by a "Hearing Officer" in accordance with "Process Three". The "Hearing Officer's" decision may be appealed to the Planning Commission in accordance with Section 111.0506.

a. Automobile service stations in any zone except the R-1 Zones, the A-1 zoned areas of the Coastal Zone, or in the Future Urbanizing area, subject to the locational criteria and developmental and operational standards contained within the document entitled "Guidelines for Automobile Service Stations", as adopted by resolution of the City Council and, if alcoholic beverages including beer, wine and distilled spirits are offered for sale or other consideration within the area portrayed on Map C-721, Section 101.0515 shall be considered by a "Hearing Officer".

b. Housing for the elderly and/or the handicapped in any residential or commercial zone, subject to the standards contained within the document entitled "Locational Criteria Design and Development Standards and Guidelines for Senior Citizen Housing Projects," as adopted by resolution of the City Council.

c. Living units, subject to the requirements of Section 101.0518.

d. Boarding kennels for dogs or cats in any agricultural, industrial or commercial zone.

e. Buildings, structures, and uses operated by a public utility or by a public body having the power of eminent domain.

f. Companion units in R-1 Zones, subject to the requirements of Section 101.0512 and when not located within the Coastal Zone.

g. Fraternity houses, sorority houses and student dormitories provided that such use is within an area

designated for such use in the applicable community plan. If such area is designated, is within one mile of the exterior boundaries of the campus of a major institution of higher learning and is in the R-1000, R-600, R-400 or R-200 Zones.

h. Research, development and testing laboratories and facilities, except in A-1 zoned areas of the Coastal Zone or in the Future Urbanizing area; however, a permit may be granted for the continued operation of existing uses and facilities in the Future urbanizing area.

i. Newspaper publishing plants, except in the A-1 zoned areas of the Coastal Zone or in the Future Urbanizing area.

j. Educational institutions, other than child care facilities and elementary schools, except in the Future Urbanizing Area. Permanent buildings or fill shall not be permitted in A-1 zoned areas of the Coastal Zone subject to the FPF (Floodplain Fringe) overlay zone.

3. Planning Commission as Decisionmaker with appeal to the City Council.

Unless otherwise specified in this Municipal Code, an application for a Conditional Use Permit for the uses listed in Section 101.0510(C) (3), in any zone, including interim zones, may be approved, conditionally approved or denied by the Planning Commission in accordance with "Process Four". The Planning Commission's decision may be appealed to the City Council in accordance with Section 111.0509.

a. Establishments or enterprises involving large assemblages of people or automobiles, including, but not limited to:

(1) Open air theaters.

(2) Recreational facilities privately operated.

(3) Theaters, nightclubs or bars, with or without live entertainment, and/or any combination thereof which exceeds five thousand (5,000) square feet in gross floor area. A Conditional Use Permit will be considered only if the zone in which the property is located permits similar uses under five thousand (5,000) square feet and provided that off-street parking is provided as follows: one (1) parking space for each three (3) fixed seats or one (1) parking space for each twenty-one (21) square feet of floor area where there are no fixed seats.

The above uses shall not be permitted in A-1 zoned areas of the Coastal Zone subject to the FPF (Floodplain Fringe) overlay zone or in the Future Urbanizing area. This provision shall not apply to youth sports facilities proposed on an interim basis, which provide recreational facilities open to the public and primarily for youth under 18 years of age at the 27-acre site located at the southeast corner of El Camino Real and Via de la Valle within the Future Urbanizing Area. Nor shall this provision apply to the reconstruction of an existing privately owned recreational facility destroyed by fire, flood or other natural disaster, provided such reconstruction does not require new (i.e., non-replacement) permanent buildings and or fill.

b. Facilities for the wrecking and dismantling of automobiles and other similar vehicles, junk yards, and all establishments engaged in the salvaging or processing of scrap metal, in any agricultural or industrial zone except in the Coastal Zone or in the Future Urbanizing area.

c. Hospital, intermediate care facilities and nursing homes, except in A-1 zoned areas of the Coastal Zone subject to the FPF (Floodplain Fringe) Overlay Zone or in the Future Urbanizing area.

d. Nonprofit institutions whose primary purpose is the promotion of public health and welfare, except in A-1 zoned areas of the Coastal Zone subject to the FPF (Floodplain Fringe) Overlay Zone or in the Future Urbanizing area.

e. Residential care facilities, as defined in Section 101.0101.96 for more than twelve persons in any zone which otherwise permits residential use, subject to the development standards and locational criteria of Section 101.0581, except in the Future Urbanizing area.

f. Treatment and counseling offices for sex offenders in the R-1000 through R-200 Zones, commercial zones, and the M-1B Zone.

g. Within the Coastal Zone only, marine-related uses (including boat building, maintenance, servicing, repair, and storage; diving, salvage, and underwater maintenance; marine carpentry and woodworking; sailmaking and repair) in any commercial zone except the CO and CN Zones.

h. Parking facilities in the A-1 zoned areas of the Coastal Zone, except in the Future Urbanizing area.

i. A Correctional Placement Center in any zone except residential, neighborhood commercial (CN), A-1 areas and Beach Impact Area (BIA) of the Coastal Zone, or in the Future Urbanizing Area, subject to the locational, operational and development requirements contained within the document entitled "Correctional Placement Center" Requirements as adopted by the Council of The City of San Diego, on file in the office of the City Clerk as Document No. RR-279736.

A biannual monitoring fee to administer, audit and enforce the permit conditions and City regulations for correctional placement centers shall be determined in accordance with the fee schedule established by resolution of the City Council and filed in the office of the City Clerk. An annual fee as established by the Chief of Police shall be due and payable to The City of San Diego for background checks on each employee and applicant.

j. Temporary Workers Camps subject to requirements contained within Municipal Code section 101.0582 in the A-1 (agricultural) zones of the Future Urbanizing Area as designated in the City of San Diego Process Guide and General Plan, provided such camps are not located within the Coastal Zone, the adopted Hillside Review, Floodway and Floodplain Fringe Overlay Zones, within Miramar Naval Air Station or land within the San Pasqual Valley and that portion of the San Dieguito River Basin located within the San Pasqual Valley as shown on

§101.0510
000316

SAN DIEGO MUNICIPAL CODE

the map entitled Phased Development Areas, dated December 1987, located at page 36 of the Progress Guide and General Plan of The City of San Diego.

k. Cemeteries, mausoleums and crematories, except in the A-1 zoned areas of the Coastal Zone subject to the FPF (Floodplain Fringe) Overlay Zone or in the Future Urbanizing area.

l. Major stationary facilities for the aerial transmission or relay of electromagnetic communications signals, including, but not limited to, radio or television transmission stations and broadcasting studios, microwave relay stations, paging broadcast facilities, and cellular mobile telephone transmitting facilities.

m. Camping parks, together with incidental facilities limited to serving the needs and convenience of occupants only, in the following zones:

(1) Any commercial zone;

(2) Any industrial zone, except the SR (Scientific Research) Zone;

(3) Any agricultural zone, provided that permanent buildings or fill shall not be permitted in areas of the Coastal Zone or the Future Urbanizing area subject to the FPF (Floodplain Fringe) Overlay Zone.

n. Any facility, activity, or use of property in any agricultural or manufacturing zone which is required by federal law to obtain a Research, Development and Demonstration Permit for Hazardous Waste Treatment from the Environmental Protection Agency or any other agency of the United States Government pursuant to the Federal Resource Conservation and Recovery Act.

o. Golf courses, golf practice driving tees or ranges, pitch-and-putt golf courses, and miniature golf courses. Within the Future Urbanizing area lodging facilities shall not be permitted as accompanying or accessory uses; clubhouse, food service, and other customary incidental uses shall not constitute an irrevocable use of the land, and shall be limited in use, size, and capacity to serve the needs and convenience of the users of the golf facility only; and reclaimed water shall be required to be used for irrigation of all landscaped areas.

p. Natural resources development and utilization including, but not limited to:

(1) Extracting, processing, storing, selling and distributing of sand, gravel, rock, clay, decomposed granite, and soil; and

(2) Manufacturing, producing, processing, storing, selling and distributing of asphaltic concrete, Portland cement concrete, concrete products, and clay products.

Those activities defined in Section 2735 of the California Surface Mining and Reclamation Act of 1975 as surface mining operations, shall comply with the requirements of Section 101.0511, including a requirement for a reclamation plan for activities conducted subsequent to January 1, 1976 and the phased implementation of an approved restoration and reclamation plan.

4. City Council as Decisionmaker.

Unless otherwise specified in this Municipal Code, an application for a Conditional Use Permit for

the uses listed in Section 101.0510(C) (4), in any zone including interim zones, may be approved, conditionally approved or denied by the City Council in accordance with "Process Five".

a. Airports and permanent helicopter facilities, subject to the standards contained within the document entitled "Locational Criteria and Development Standards for Helicopter Facilities," as adopted by resolution of the City Council, except in the A-1 zoned areas of the Coastal Zone subject to the FPF (Floodplain Fringe) Overlay Zone.

b. Amusement parks, except in the A-1 zoned areas of the Coastal Zone subject to the FPF (Floodplain Fringe) Overlay Zone or in the Future Urbanizing area.

c. Fairgrounds, except in the Future Urbanizing area, provided that permanent buildings and/or fill shall not be permitted in A-1 zoned areas of the Coastal Zone subject to the FPF (Floodplain Fringe) Overlay Zone.

d. Race tracks, except in the A-1 zoned areas of the Coastal Zone or in the Future Urbanizing area.

e. Any hazardous waste facility project, as defined in Section 101.0516, in any manufacturing or agricultural zone; subject to the additional provisions in Section 101.0516.

f. Residential, commercial, industrial, or institutional uses in and on historical sites, except that only residential uses may be permitted in the Future Urbanizing area.

5. In addition to the land uses specified in this paragraph, various other land uses may be authorized within planned districts only under Conditional Use Permit. For a list of such uses refer to the individual planned district regulations, as set forth in Chapter X, Article 3, Division 1, et seq., of this Municipal Code.

6. Conditional uses permitted in the FW Zone shall be limited to those uses identified in Section 101.0403.

D. APPLICATION—FORM AND CONTENTS

Application for any Conditional Use Permit referred to in Section 101.0510 shall be filed with the Development Services Department in accordance with Section 111.0202. The application shall state fully the circumstances and conditions relied upon as grounds for the application and shall be accompanied by adequate plans, a legal description of the property involved, and a detailed description of the proposed use.

E. ACTION OF THE DECISIONMAKER

1. After the public hearing, the decisionmaker may, approve or conditionally approve a Conditional Use Permit, if, after considering the facts presented in the application and at the hearing, it is found that:

a. The proposed use will not adversely affect the neighborhood, the General Plan, or the Community Plan, and, if conducted in conformity with the conditions provided by the permit, will not be detrimental to the health, safety and general welfare of persons residing or working in the area; and

b. The proposed use will comply with all the relevant regulations in this Code.

2. If the decisionmaker, after considering the facts presented on the application and at the hearing, is unable to make the two findings set forth in Section 101.0510(E) (1), it shall, deny the permit.

3. The decision to approve, conditionally approve or deny the Conditional Use Permit shall be in writing and include a finding of facts showing whether the conditional use fulfills or fails to fulfill the requirements set forth in Section 101.0510(E) (1). The written decision shall be filed with the City Clerk, the Development Services Department and the County Recorder of San Diego County. A copy of the decision shall be mailed to the applicant. The written decision shall not be filed with the County Recorder if the Conditional Use Permit is denied.

4. In granting a Conditional Use Permit, the Decisionmaker may impose such conditions as it deems necessary and desirable to protect the public health, safety and general welfare. Any regulations of the zone in which property is situated including, but not limited to, signs, fences, walls, maximum building heights, density, minimum yards, maximum building coverage, floor area ratio and off-street parking may be increased or decreased, except that density may not be increased within the Future Urbanizing area. If deemed appropriate the Decisionmaker may assign an expiration date to the permit.

F. AMENDMENT TO PERMIT

1. An amendment or modification may be made to a valid Conditional Use Permit in accordance with Section 111.1125.

G. TIME LIMIT ON INITIATION OF CONDITIONAL USE

Unless otherwise provided by the terms of an approved Conditional Use Permit, a Conditional Use Permit shall expire and become void thirty-six (36) months after the "Date of Final Action" of the permit, if the Conditional Use Permit is not utilized in one of the following ways:

1. Where no construction is required: occupancy of structures and conduct of activities in conformance with activities authorized by the Conditional Use Permit;

2. Where construction is required without subdivision of land: twenty percent or more completion of the total footings, foundations, or similar supporting structures authorized by the Conditional Use Permit; or

3. Where subdivision of land is required: recordation of the final or parcel map.

4. The Conditional Use Permit may expressly authorize two or more phases of implementation, in which instance the time limits set forth in Section 101.0510(G) may be determined separately for each phase or as determined in the permit.

H. EXTENSION OF TIME

The expiration date of a valid Conditional Use Permit may be extended as provided in Section

111.1122.

I. RESCISSION OF PERMIT BY APPLICANT PRIOR TO INITIATION OF USE

1. A valid Conditional Use Permit granted by the City of San Diego may be rescinded by the owner of the subject property at any time prior to the initiation of usage set forth in Section 101.0510(G).

2. Such rescission shall be initiated upon receipt by the Development Services Department of a written communication from the owner of the subject property to the Development Services Director.

3. Upon receipt of the request the Development Services Director shall cause preparation of a written declaration rescinding the Conditional Use Permit. The declaration shall be filed with the City Clerk, the Development Services Director and the County Recorder of San Diego County. A copy of the declaration shall be mailed to the owner of the subject property. The permit shall become void when the declaration is recorded by the County Recorder or 120 calendar days after the Development Services Department receives the written request, whichever occurs later.

J. OPERATIONAL PARAMETERS

1. Following the initiation of a use authorized by the Conditional Use Permit, the subject property shall not be used for any purpose. Unless expressly authorized by the conditional use permit, preexisting uses and structures shall be terminated or removed, respectively. Any change in use requires a new or amended Conditional Use Permit to be obtained.

2. Neither construction nor any activity authorized by the Conditional Use Permit shall be undertaken on the premises until:

a. The permittee and property owner, if the owner is not the permittee, shall sign and return a copy of the permit to the Development Services Department and

b. The Conditional Use Permit is recorded in the office of the County Recorder of San Diego County.

By signing the permit, the permittee/owner shall acknowledge that he/she has read, understands, and agrees to all provisions and conditions of the permit.

K. REVOCATION OF PERMIT

A Hearing Officer may revoke or modify a Conditional Use Permit in accordance with the provisions of Chapter XI, Article 1, Division 6, if any one or more of the following findings can be made:

1. That the permit approval was obtained by fraud;

2. That the uses and privileges authorized by the permit have not been initiated within the thirty-six (36) months specified in Section 101.0510(G) and no extension of time has been granted;

3. The permit is being or has been exercised contrary to the conditions of said permit, or in violation of any applicable licenses, permits, regulations or laws;

4. The use for which the permit was obtained is being or has been exercised so as to be detrimental to the public health, safety, or general welfare or so as to constitute a public nuisance; or

5. The property or any structure thereon subject to the permit has been abandoned or the use authorized by the permit has ceased for a period exceeding twelve (12) months and no amendment has been granted for a longer time.

L. RESCISSION OF PERMIT BY APPLICANT FOLLOWING ESTABLISHMENT OF USE

1. Following the establishment of uses authorized by a valid Conditional Use Permit, the owner of the subject property may request the rescission of the permit.

2. The rescission shall be initiated upon receipt by the Development Services Department of a written communication from the owner of the subject property to the Development Services Director.

3. Upon receipt of the request for rescission the Development Services Director or the administrator of the planned district in which the subject property is located, shall initiate an investigation and determine in what ways, if any, the premises fail to conform to the provisions of the zone or planned district in which the premises are located. If the premises fail in any way to conform with the zone or district, the Development Services Director or district administrator shall prepare a list of particulars. A copy of the list shall be provided to the permittee, together with a statement that after the permit becomes void, nonconformance with the provisions of the zone or district constitutes a public nuisance subject to the provisions of Section 101.0213, Zoning Violation Abatement Program.

4. Once the Development Services Director or planned district administrator has provided the permittee with the list of nonconformities the Development Services Director shall cause the preparation and filing of a declaration rescinding the permit. Upon recordation of the declaration with the County Recorder, the permit shall be void. If appropriate, the City shall actively pursue any zoning or planned district nonconformance.

M. COASTAL ZONE REGULATIONS

Within the Coastal Zone, the following regulations shall be supplementary to, and in the event of conflict shall supersede, the regulations set forth or referenced in preceding paragraphs of the section.

Uses Which May be Considered (see Section 101.0510(C)): Any use included in Section 101.0510(C) provided that where such uses are proposed to be located within the SCR Overlay Zone, the HR Overlay Zone, the FW Zone or the FPF Overlay Zone, such uses shall be consistent with the uses permitted under such zones and shall be subject to all applicable regulations and restrictions.

(Amended 5-28-96 by O-18303 N.S.)

§ 101.0511 Requirements for Processing Conditional Use Permits and Reclamation

Plans for Natural Resources Development

A. PURPOSE AND INTENT

1. These requirements are adopted pursuant to the California Surface Mining and Reclamation Act of 1975, Chapter 9, Public Resources Code ("California Surface Mining and Reclamation Act of 1975").

2. The City hereby finds and declares that the extraction of minerals is essential to the continued economic well-being of the City and to the needs of society, and that the reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety.

3. The City further finds that the reclamation of mined lands, as provided in this ordinance, will permit the continued mining of minerals and will provide for the protection and subsequent beneficial use of the mined and reclaimed land.

4. The City further finds that surface mining takes place in diverse areas where the geologic, topographic, climatic, biological and social conditions are significantly different and that reclamation operations and the specifications therefor may vary accordingly.

B. DEFINITIONS

1. "Exploration" or "prospecting"— the search for minerals by geological, geophysical, geochemical or other techniques, including, but not limited to, sampling, assaying, drilling or any surface or underground works needed to determine the type, extent or quantity of minerals present.

2. "Mined Lands"— includes the surface, sub-surface and groundwater of an area in which surface mining operations will be, are being or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste and areas in which structures, facilities, equipment, machines, tools or other materials or property which result from, or are used in, surface mining operations.

3. "Minerals"— any naturally occurring chemical element or compound, or groups of elements and compounds, formed from inorganic processes and organic substances, including, but not limited to, coal, peat and bituminous rock, but excluding geothermal resources, natural gas and petroleum.

4. "Mining Waste"— includes the residual of soil, rock, mineral, liquid, vegetation, equipment, machines, tools or other materials or property directly resulting from, or displaced by, surface mining operations.

5. "Operator"— any person who is engaged in surface mining operations, himself, or who contracts with others to conduct operations on his behalf, except a person who is engaged in surface mining operations as an employee with wages as his sole compensation.

6. "Overburden"— soil, rock or other materials that lie above a natural mineral deposit or in between deposits, before or after their removal by

EXPIRATION CONDITIONS

Quick Glance

This condition applies to **Verus Street** (PTS No. 90455) and **Yolanda** (PTS No. 90475):

"This Conditional Use Permit will expire ten years from the effective date of the approved permit, unless a new application for a Conditional Use Permit is submitted to the Development Services Department, DEP Division, 90 days in advance of the expiration date as stated herein:

- a. Should the new permit application be denied by the Development Services department Director/Planning Commission, this permit will automatically expire 90 days from the date of action by the approving authority; and
- b. The permittee shall cease and desist all activity on the site within 90 days from the date of action by the approving authority;
- c. The permittee shall return the site to its original condition within 90 days from the date of action by the approving authority."

This condition applies to **Kearny Villa** (PTS No. 90486):

"This Conditional Use Permit shall be valid for a period not to exceed 10 years. Prior to the expiration date, the property owner/permittee may:

- a. Submit a complete application for a new Conditional Use Permit to operate on this site, complying with all regulations and guidelines for communication facilities in effect at the time; or
- b. Cease all operations/activities on the site, and remove the monopole, equipment of the facility from the property."

And;

"The 10 (ten) year period shall commence on the date that the CUP is approved by action of the Planning Commission or the City Council, if appealed."

This condition applies to **Federal** (PTS No. 91175):

"This permit shall expire on February 2, 2005, the communication facilities described herein shall be removed from this site and the property shall be restored to its original condition."

And;

000320

"Prior to the expiration date of this permit on February 2, 2005, the applicant may submit to the Development Services Department for an Extension of Time, to be considered by the Planning Commission, to allow the cellular communications facilities described herein to continue on this site. Additional conditions or restrictions relevant to existing and proposed improvements or uses on this site may be recommended by the Development Services Department and/or correspondingly applied by the Planning Commission to any request(s) for an Extension of Time on this permit."

This condition applies to **Mini Storage** (PTS No. 107501):

"This Conditional Use Permit is granted for a period of ten (10) years from February 1, 1996, at which time it will become null and void unless a new application for a Conditional Use Permit is applied for and approved under the procedures in effect at that time. At such time as the Conditional Use Permit expires or ceases to be utilized, all antennas and equipment will be removed from the site by the last owner/permittee of the use."

This condition applies to **30th Place** (PTS No. 92067), **Aviation** (PTS No. 92076), and **Mt. Ada** (PTS No. 91178):

"This permit shall expire 20 years from the date of approval. If an extension is requested, the operation and conditions shall be reviewed at public hearings by the Planning Commission and City Council."


005-3

QUICK GLANCE PROJECT DESCRIPTION											
PTS NO.	PROJECT NAME	PERMIT TYPE	LOCATION	EXPIRATION	SUBMIT DATE	COMMUNITY PLAN	ENVIRON. DOCUMENT	ORIGINAL PERMITTEE	APPROVAL NO.	ZONE	PROJECT DESCRIPTION
JO NO.				APPROVAL		COUNCIL DISTRICT	DATE	ORIGINAL PERMIT NO.			
90455 425667	Verus St.	CUP Process 3	2222 Verus St.	7/27/1995 7/27/95 PC	12/1/2005	Olay Mesa Nestor (8)	Exempt 1/13/06	Nextel 94-0471	CUP No. 289921	IL-2-1	90' pole 200 sq. ft. shelter
90475 425668	Yolanda Ave.	CUP Process 3	9606 Yolanda Ave.	7/27/05 7/27/95 PC	12/1/2005	Kearny Mesa (6)	Exempt 1/13/06	Nextel 94-0527	CUP No. 289973	RS-1-1 IL-2-1	200 sq. ft. shelter with antennas on poles above
90486 425671	Kearny Villa	CUP Process 3	5571 Kearny Villa Rd.	1/26/05 1/26/95 PC	12/5/2005	Kearny Mesa (6)	Exempt 3/1/07	Nextel 94-0479	CUP No. 290030	IL-2-1	120' pole 200 sq. ft. shelter
91175 425717	Federal Blvd.	CUP Process 3	4586 Federal Blvd.	2/2/05 2/2/95 PC	12/12/2005	City Heights (4)	Exempt 2/22/07	Verizon 94-0627	CUP No. 292612	IL-3-1	100' pole 450 sq. ft. shelter
107501 426672	Mini Storage	CUP Process 3	1529 38th St.	2/1/06 2/1/96 PC	7/5/2006	City Heights (7)	Exempt 8/15/06	Nextel 94-0330-12	CUP No. 357727	IL-21-	60' pole 190 sq. ft. shelter
92067 425781	30th Place	CUP/PDP Process 4	797 1/3 30th Place	11/20/04 11/20/84 CC	12/21/2005	Southeast San Diego (8)	Exempt 2/8/06	Pac Tel Mobile 84-0469	CUP No. 296127 PDP No. 453612	MF-3000	130' pole 500 sq. ft. shelter
92076 425782	Aviation	CUP/PDP Process 4	6770 Aviation Dr.	11/20/04 11/20/84 CC	12/23/2005	Skyline Paradise Hills (4)	Exempt 3/1/07	Pac Tel Mobile 84-0472	CUP No. 296155 PDP No. 296156	RS-1-7	130' pole 550 sq. ft. shelter
91178 425718	Mt. Ada	CUP/SDP Process 5	6426 Mt. Ada	11/20/04 11/20/84 CC	12/9/2005	Clairemont Mesa (6)	Exempt 1/23/06	Pac Tel Mobile 83-0629	CUP No. 292627 SDP No. 450714	CC-1-3	145' pole 572 sq. ft. shelter

ATTACHMENT M

000325

203
10/15

 City of San Diego Development Services 1222 First Ave. 3rd Floor San Diego, CA 92101 (619) 446-5210 THE CITY OF SAN DIEGO	RECEIVED CLERK'S OFFICE AUG 11 11 PM 12:11 SAN DIEGO, CALIF.	Development Permit/ Environmental Determination Appeal Application	FORM DS-3031 MARCH 2007

See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

1. Type of Appeal:

- ☐ Process Two Decision - Appeal to Planning Commission
☐ Process Three Decision - Appeal to Planning Commission
☒ Process Four Decision - Appeal to City Council
- ☐ Environmental Determination - Appeal to City Council
☐ Appeal of a Hearing Officer Decision to revoke a permit

2. Appellant Please check one ☒ Applicant ☐ Officially recognized Planning Committee ☐ "Interested Person" (Per M.C. Sec. 113.0103)

Name
Robert Jystad, Channel Law Group, LLP on behalf of applicant American Tower Corporation

Address 100 Oceangate, Suite 1400 **City** Long Beach **State** CA **Zip Code** 90802 **Telephone** (310) 209-8515

3. Applicant Name (As shown on the Permit/Approval being appealed). Complete if different from appellant.

Doug Kearney, American Tower Corporation

4. Project Information

Permit/Environmental Determination & Permit/Document No.: CUP No. 296127/SDP No. 452327 (PTS No. 92067)	Date of Decision/Determination: June 28, 2007	City Project Manager: Karen Lynch Ashcraft
--	--	---

Decision (describe the permit/approval decision):

Deny Conditional Use Permit No. 296127 and Site Development Permit No. 452327

5. Grounds for Appeal (Please check all that apply)

- ☐ Factual Error (Process Three and Four decisions only)
☐ Conflict with other matters (Process Three and Four decisions only)
☒ Findings Not Supported (Process Three and Four decisions only)
- ☐ New Information (Process Three and Four decisions only)
☒ City-wide Significance (Process Four decisions only)

Description of Grounds for Appeal (Please relate your description to the allowable reasons for appeal as more fully described in Chapter 11, Article 2, Division 5 of the San Diego Municipal Code. Attach additional sheets if necessary.)

Planning Commission adopted motion to deny CUP and SDP on grounds that the Commission could not make Finding No. 3 in the affirmative because application does not comply to the maximum extent feasible with the Land Development Code.

This determination is based on the unsupported assertion that the facility does not satisfy the requirements of the Code to

"conceal from public view or integrate into the architecture or surrounding environment." Applicant disputes the application of the

revised Land Development Code to this site and asserts vested rights to renewal and/or approval of this application on the

grounds, among others, that applicant and its client relied on the underlying approval to construct utility telephone networks

around this backbone facility. Staff has indicated, moreover, that any attempt to conceal this facility, even if undertaken

by the applicant, will require a substantial reduction in height that will have significant impacts on a highly trafficked network,

impacts that outweigh the public benefit, if any, of replacing the pole with an ornamental structure that exceeds the bulk, mass

and density of the existing pole. Applicant reserves right to supplement these grounds for appeal.

6. Appellant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.

Signature: 

Date: July 7, 2007

Note: Faxed appeals are not accepted. Appeal fees are non-refundable.

Printed on recycled paper. Visit our web site at www.sandiego.gov/development-services.

Upon request, this information is available in alternative formats for persons with disabilities.

DS-3031 (03-07)

EXECUTIVE SUMMARY SHEET
CITY OF SAN DIEGO

DATE ISSUED: REPORT NO: PC -07-079
ATTENTION: Council President and City Council
ORIGINATING DEPARTMENT: Development Services Department
SUBJECT: Appeal of Planning Commission Decision - American Tower Corporation-30th Place - Project No. 92067, Process 4
COUNCIL DISTRICT(S): 8
CONTACT/PHONE NUMBER: Karen Lynch-Ashcraft/(619) 446-5351 or klynchashcraft@sandiego.gov

REQUESTED ACTION: Appeal of the Planning Commission's decision to deny a Conditional Use Permit and Planned Development Permit for a 130 foot high monopole and a 500 square foot equipment building located at 797 1/3 30th Place in the Southeastern San Diego Community Planning area.

STAFF RECOMMENDATION: **DENY** the appeal and **UPHOLD** the Planning Commission's decision to deny Conditional Use Permit No. 296127 and Planned Development Permit No. 453612.

EXECUTIVE SUMMARY: On November 20, 1984, the City Council approved a Conditional Use Permit (CUP) for a 130 foot high monopole and a 500 square-foot equipment shelter on the south side of Highway 94 at 797 1/3 30th Place. This was one of the first telecommunication facilities within the City. Since wireless communications was in its infancy, the Council imposed a 20 year limit on the life of the CUP in order to allow the facility to be constructed, the technology to be implemented and a review to occur in the future when technology and/or regulations changed. The condition included language regarding an extension to the permit, which would be required to be reviewed at a Planning Commission and City Council public hearing prior to November 20, 2004. The Land Development Code does not have provisions to extend discretionary permits.

The 130 foot tall monopole is situated at a high point along Highway 94 in a residential neighborhood and exceeds the MF-3000 height limit by 100 feet. Deviations to the development regulations require a PDP, which is a mechanism to encourage imaginative and innovative planning. Section 141.0405 of the Land Development Code (Communication Antennas) requires wireless facilities to be integrated into the landscape or camouflaged from public view. This monopole is a significant visual impact on the horizon along Highway 94 and the surrounding communities. Neither the findings for the CUP nor the findings for the PDP could be made in the affirmative; therefore staff recommended denial of the project to the Planning Commission.

On June 28, 2007, the Planning Commission considered the 30th Place monopole and voted unanimously (5-0) to deny the CUP because the facility is not camouflaged from public view and because it is not integrated into the environmental setting.

On July 11, 2007, Robert Jystad, attorney for American Tower Corporation, appealed the Planning Commission decision based on the findings not being supported and on the basis that the decision is of Citywide significance. The appellant asserts that American Tower has vested rights to renewal and/or approval based on the fact that they relied on this approval to build out their network. The appellant also asserts that Finding No. 3 can be made in the affirmative. Staff believes that because the CUP had a specific expiration date, it was Verizon's (tenant) responsibility and American Tower's due diligence to make provisions in the network to accommodate changes that were inevitable to this tower. It has been consistently acknowledged by staff that these first generation support structures would eventually have to be removed and replaced if technology had advanced sufficiently for the changes to be made. Twenty years have past; technology has advanced and American Tower and Verizon must comply with the regulations in order to maintain a wireless facility at this location.

The City has approximately twenty existing monopoles, all of which were approved more than ten years ago. With the advancement of technology and design capabilities in the wireless industry, it has been the City's practice over the past ten years not to allow additional monopoles, but instead, to encourage and provide incentives to the carriers to minimize the visual impacts associated with wireless facilities.

American Tower has raised the issue of vested rights in the past and staff has argued, and the Planning Commission has confirmed that a contract was signed by the original applicant of record, in this case, Pac Tel Mobile Access (now Verizon), acknowledging that the Conditional Use Permit not only ran with the land, but also expired on November 20, 2004. Preparations and modifications in the network should have been made to accommodate the potential for a height reduction. Verizon has worked closely with the City for the past twenty years and has known that monopoles were eventually going to be phased out and replaced.

FISCAL CONSIDERATIONS: All costs associated with the processing of this appeal are paid by the applicant.


PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

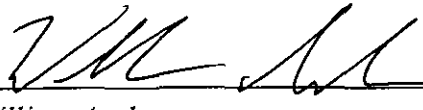
PLANNING COMMISSION RECOMMENDATION: The Planning Commission voted 5-0 to recommend **DENIAL** of Conditional Use Permit No. 296127 and Planned Development Permit No. 453612.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: On March 27, 2006, American Tower met with the Technical Subcommittee of the Southeastern San Diego Planning Committee on 30th Place. They requested additional information on landscape and replacement of the existing chain link fence with wrought iron. American Tower has not been able to present to the Southeastern San Diego Planning Committee to date.

000329

KEY STAKEHOLDERS AND PROJECTED IMPACTS: Compliance with the Communication Antenna regulations will require American Tower Corporation and their tenant Verizon Wireless to expend funds to upgrade their facility and make modifications to other facilities to accommodate the reduction in height.


Patti Boekamp KGB
Interim Director
Development Services Department


William Anderson
Interim Deputy Chief of Land Use and
Economic Development

000331

DETERMINATION OF

ENVIRONMENTAL EXEMPTION

Pursuant to the California Environmental Quality Act (CEQA) and State CEQA Guidelines

Agency: CITY OF SAN DIEGO

Project No.: 92067

Date: February 8, 2006

Action/Permit(s): CUP/SDP/PDP

Description of Activity: Verizon 30th Place Approval of the proposed project would allow the operation of an existing, expired CUP (84-0469) consisting of a 130 foot high monopole supporting a total of 26 antennas with a 484 square-foot equipment building.

Location of Activity: The project is located at 700 30th Place within the Southeastern San Diego Community Plan, in the City and County of San Diego.

(CHECK BOXES BELOW)

1. ☐ This activity is EXEMPT FROM CEQA pursuant to:
- ☐ Section 15061(b) (3) of the State CEQA Guidelines (the activity is not a project as defined in Section 15378).
2. ☒ This project is EXEMPT FROM CEQA pursuant to State CEQA Guidelines Section checked below:

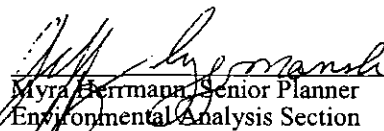
ARTICLE 19 of GUIDELINES
CATEGORICAL EXEMPTIONS
(Incomplete list)

Section	Short Name
<input checked="" type="checkbox"/> 15301	Existing Facilities
<input type="checkbox"/> 15302	Replacement or Reconstruction
<input type="checkbox"/> 15303	New Construction or Conversion of Small Structures
<input type="checkbox"/> 15304	Minor Alterations to Land
<input type="checkbox"/> 15305	Minor Alteration in Land Use
<input type="checkbox"/> 15306	Information Collection
<input type="checkbox"/> 15311	Accessory Structures
<input type="checkbox"/> 15312	Surplus Government Property Sales
<input type="checkbox"/> 15315	Minor Land Divisions
<input type="checkbox"/> 15317	Open Space Contracts or Easements
<input type="checkbox"/> 15319	Annexation of Existing Facilities and Lots for Exempt Facilities
<input type="checkbox"/> 15325	Transfer of Ownership of Interest in Land to Preserve Open Space
<input type="checkbox"/> Other	

ARTICLE 18 of GUIDELINES
STATUTORY EXEMPTIONS
(Incomplete list)

Section	Short Name
<input type="checkbox"/> 15261	Ongoing Project
<input type="checkbox"/> 15262	Feasibility and Planning Studies
<input type="checkbox"/> 15265	Adoption of Coastal Plans and Programs
<input type="checkbox"/> 15268	Ministerial Projects
<input type="checkbox"/> 15269	Emergency Projects
<input type="checkbox"/> Other	

It is hereby certified that the City of San Diego
has determined the above activity to be exempt:

 (FOR)
Myra Herrmann, Senior Planner
Environmental Analysis Section

Distribution:

Exemption or Project File
Karen Lynch-Ashcraft, Development Services Department

000333

PLANNING COMMISSION
RESOLUTION NO. 4280-PC
CONDITIONAL USE PERMIT NO. 296127
PLANNED DEVELOPMENT PERMIT NO. 453612
AMERICAN TOWER – 30TH PLACE
PROJECT NO. 92067

WHEREAS, Verizon Wireless (VAW) LLC dba Verizon Wireless, Owner and American Tower Corporation, Permittee, filed an application with the City of San Diego for a permit for a wireless communication facility (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Conditional Use Permit No. 296127 and Planned Development Permit No. 453612, on portions of an .19 acre site;

WHEREAS, the project site is located at 797 1/3 30th Place in the MF-3000 zone of the Southeastern San Diego Community Plan;

WHEREAS, the project site is legally described as Lot 2 of Hilltop Subdivision in the City of San Diego, according to map thereof No. 5357, filed in the Office of the County Recorder of San Diego County, March 6, 1964;

WHEREAS, on June 28, 2007, the Planning Commission of the City of San Diego considered Conditional Use Permit No. 296127 and Planned Development Permit No. 453612, pursuant to the Land Development Code of the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED by the Planning Commission of the City of San Diego as follows:

That the Planning Commission adopts the following written Findings, dated June 28, 2007.

FINDINGS:

Conditional Use Permit - Section 126.0305

1. The proposed development will not adversely affect the applicable land use plan;

This facility was originally approved by the City Council on November 20, 1984. The Conditional Use Permit (CUP) included a 20 year expiration. At the time of approval, the City did not have applicable regulations for these types of facilities so the City Council imposed a twenty year limit in order to re-evaluate the project in light of new regulations and or policies that may be in effect. The project exists as it did after initial construction and American Tower Corporation is now seeking to obtain another CUP to maintain the facility as is.

Neither the City of San Diego General Plan nor the Southeastern San Diego Community Plan addresses wireless communication facilities as a specific land use.



2. The proposed development will not be detrimental to the public health, safety, and welfare;

The Telecommunication Act of 1996 preempts local governments from regulating the "placement, construction and modification of wireless communication facilities on the basis of the environmental effects of Radio Frequency (RF) emission to the extent that such facilities comply with the Federal Communication Commission's (FCC) standards for such emissions." If the decision maker approves the existing facility, a condition will be included within the permit to require American Tower to perform a cumulative model RF test and submit the finding in a report to the City of San Diego within 90 days of approval of the CUP/PDP.

3. The proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code; and

This facility was originally approved by the City Council on November 20, 1984. The Conditional Use Permit (CUP) included a 20 year expiration. At the time of approval, the City did not have applicable regulations for these types of facilities so the City imposed a twenty year time limit in order to re-evaluate the project in light of new regulations and or policies that may be in effect. The project exists as it did after initial construction and American Tower Corporation is now seeking to obtain another CUP to maintain the facility as is.

Since 2000, the City has had a Communication Antenna ordinance that requires architectural or environmental integration with the project site. Pursuant to the San Diego Land Development Code, wireless communication facilities are permitted in all zones citywide with the appropriate permits. Wireless communication facilities are separately regulated uses, which have limitations or require compliance with conditions in order to minimize potential impacts. The intent of the regulations is to camouflage facilities from public view. In this case, the monopole is the tallest structure in and around the area in which it is located and as such, it has an incongruous effect on the community's landscape. It is not camouflaged from public view nor is it architecturally integrated into the architectural or environmental setting. It is situated prominently along Highway-94, which serves as a major east west transportation corridor and it poses an unsightly visual impact for commuters that utilize this corridor as well as for residents of the surrounding communities.

Section 141.0405 of the Land Development Code differentiates between minor and major telecommunication facilities. Minor telecommunication facilities include those that are concealed from public view or integrated into the architecture or surrounding environment through architectural enhancement (enhancements that complement the scale, texture, color and style) unique design solutions, or accessory use structures. Major telecommunication facilities are antenna facilities that do not meet the criteria for minor telecommunication facilities or they are located in residential zones containing residential uses. Similar to minor facilities, they also need to be designed to be minimally visible through the use of architecture, landscape architecture and siting solutions. The 30th Place project does not conform to this code requirement due to its height, design, color and the visual clutter it creates. As it exists, it is a significant visual impact along Highway-94, which serves as a major transportation corridor through the city. Many commuters pass through this section of the city on a daily basis and are subjected to the unsightliness associated with this project.

Therefore, the project does not comply to the maximum extent feasible with the regulations of the Land Development Code.

4. The proposed use is appropriate at the proposed location.

A wireless communication facility at this location is an appropriate use subject to compliance with the ordinances and policies that regulate these types of facilities.

Planned Development Permit - Section 126. 0604

1. The proposed development will not adversely affect the applicable land use plan;

This facility was originally approved by the City Council on November 20, 1984. The Conditional Use Permit (CUP) included a 20 year expiration. At the time of approval, the City did not have applicable regulations for these types of facilities so the City Council imposed a twenty year limit in order to re-evaluate the project in light of new regulations and or policies that may be in effect. The project exists as it did after initial construction and the new owner, American Tower Corporation is now seeking to obtain another CUP to maintain the facility as is. Neither the City of San Diego General Plan nor the Southeastern San Diego Community Plan addresses wireless communication facilities as a specific land use.

2. The proposed development will not be detrimental to the public health, safety, and welfare; and

The Telecommunication Act of 1996 preempts local governments from regulating the "placement, construction and modification of wireless communication facilities on the basis of the environmental effects of Radio Frequency (RF) emission to the extent that such facilities comply with the Federal Communication Commission's (FCC) standards for such emissions." If the decision maker approves the existing facility, a condition will be included within the permit to require American Tower to perform a cumulative model RF test and submit the finding in a report to the City of San Diego within 90 days of approval of the CUP.

3. The proposed development will comply with the applicable regulations of the Land Development Code.

The monopole complies with all the development regulations of the MF-3000 zone except for the height limit of 30 feet. The monopole is 130 feet tall and is situated at a high point prominently alongside of Highway-94. Development in the area is low in scale and primarily residential in nature with commercial uses further away from the freeway. The existing tower exceeds the MF-3000 zone height limit by 100 feet. Deviations to the development regulations require a Planned Development Permit, which is a mechanism to encourage imaginative and innovative planning and to assure that the project achieves the purpose and intent of the applicable land use plan and that it would be preferable to what would be achieved by strict conformance with the regulations.

000336

This project was originally constructed in the mid-1980's when Pac Tel Mobile (now Verizon) was only one of two wireless carriers in San Diego. Their network was being established with tower structures and branched out to building collocations later. Typically, carriers initially built tall facilities, later filling in their networks with lower sights. Verizon signed the contract (CUP84-0469) acknowledging the 20 year time limit on the facility. In order to maintain a facility at this site, a new application in compliance with the current regulations and policies would be required.

4. The proposed development, when considered as a whole, will be beneficial to the community; and

The monopole serves Verizon subscribers in the surrounding communities, as well as commuters passing through the area and as such, is a beneficial service. Conversely, the significant visual impacts that the pole creates are detrimental to the surrounding communities as well as to the City of San Diego. The pole sits on a hill at an elevation of 170 feet. The pole is 130 feet tall. Just .24 miles to the west, the elevation drops 30 feet. Approximately .19 miles to the east, the elevation drops 30 feet and .29 miles to the southeast, the elevation drops a dramatic 95 feet. The monopole is a negative visual community landmark that can be seen from miles away. The original design of this tower was developed 20 years ago when the technology was at its infancy. The CUP was conditioned to expire in 20 years and the owner and operator of the facility, Verizon and American Tower Corporation had the responsibility of making preparations within their network to comply with any new regulations or policies in effect, which would have included a required reduction in height as well as adjustments to other existing facilities and development of new facilities.

5. Any proposed deviations pursuant to Section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.

The applicant, American Tower Corporation, is requesting to deviate from the RS-1-7 height limitation of 30 feet. The existing tower is 130 feet tall and can be viewed from miles away. It sits on an elevated hill within the Southeastern San Diego community, prominently along side of Highway-94 and is a significant visual impact within San Diego. The project, as it exists, does not result in a visually desirable project. If redesigned to comply with the 30 foot height limit, Verizon services to the community and passing commuters would be significantly reduced. However, Verizon has the responsibility of exploring available alternatives that would address legal requirements as well as reduce the negative impact on their existing network. Section 141.0405 of the Land Development Code requires telecommunication facilities to integrate into the landscape in which they are proposed. If this facility were to be redesigned to comply with this section of the Code, a reasonable height deviation may be considered. The existing tower does not result in an acceptable project.



000337

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Conditional Use Permit No. 296127 and Planned Development Permit No. 453612 is hereby DENIED by the Planning Commission.

Karen Lynch-Ashcraft
Development Project Manager
Development Services

Adopted on: June 28, 2007

Job Order No. 42-5781

000339

NOTE: The minutes for the Planning Commission meeting of June 28, 2007 were not available at the time of assembly of this exhibit pac. The vote is provided in the back -up materials for this item.

000341

Channel Law Group, LLP

100 OCEANGATE
SUITE 1400
LONG BEACH, CA 90802-4323

Fax: (562) 216-5090
www.channellawgroup.com

ROBERT JYSTAD
JULIAN K. QUATTLEBAUM, III *
JAMIE T. HALL **
MARTHA HUDAK, Special Counsel***

Writer's Direct Line: (310) 209-8515
rjystad@channellawgroup.com

*ALSO Admitted in Colorado
**ALSO Admitted in Texas
***ALSO admitted in New York and New Jersey

June 25, 2007

VIA OVERNIGHT DELIVERY

Planning Commission
City of San Diego
202 C Street, 12th Floor
San Diego, CA 92101

**Re: American Tower Corporation ("ATC") CUP No. 296127/PDP No.
452327 (30th Place – PTS No. 90455)**

Dear Chairman Schultz and Commissioners:

I am writing this letter on behalf of American Tower Corporation ("ATC") which respectfully requests that the City of San Diego's Planning Commission ("Commission") grant the referenced Conditional Use Permit ("CUP") and, if necessary, a Site Development Permit ("SDP").

The City Attorney's Office undoubtedly has made the Commission aware that ATC filed suit against the City of San Diego ("City") in federal court on grounds, *inter alia*, that the City's permitting process is unlawful. ATC filed this request for a permit under protest and is pursuing this permit concurrently as it seeks the Court's review of the permitting process. ATC's decision to pursue a permit through this process should not be construed as a waiver of ATC's rights under federal and state law, and ATC reserves all rights accordingly.

I. Background

ATC hereby requests that the City of San Diego ("City") permit the continued use of this wireless communications facility ("WCF"), which has been operational for over twenty (20) years without creating any adverse impacts on the surrounding areas and that during this period has been continuously serving the City's vital public and private communications needs.

The communication facility at 797 1/3 30th Place ("Facility") consists of a of a 130-foot monopole with seven (7) microwave antennas, one (1) 8-foot omni-directional cellular antenna,

#203
10/15/07

LAWYERS



Davis Wright Tremaine LLP

ANCHORAGE BELLEVUE LOS ANGELES NEW YORK PORTLAND SAN FRANCISCO SEATTLE SHANGHAI WASHINGTON, D.C.

SUZANNE K. TOLLER
DIRECT (415) 276-6536
suzanne.toller@dwt.comSUITE 800
505 MONTGOMERY STREET
SAN FRANCISCO, CA 94111-6533TEL (415) 276-6500
FAX (415) 276-6529
www.dwt.com

October 5, 2007

The Honorable Scott Peters
City Council President
City of San Diego
2020 C Street, MS 10A
San Diego, CA 92101**RE: Request for continuance: American Tower Wireless Communication Towers at 30th Place and Mt. Ada Drive**

Dear Councilman Peters:

On behalf of applicant American Tower and Verizon Wireless I am writing to request a continuance for two items currently scheduled for the October 15, 2007 City Council Hearing. Both items relate to renewals of conditional use permits for wireless communications towers that are owned by Verizon Wireless and managed by American Tower. The first site is located at 797 1/3 30th Place (CUP 4523270), and the second is located at 6246 Mt. Ada Drive (CUP 292627).

The parties respectfully request the continuance of the City Council hearing for these sites to allow additional time to adequately prepare for the hearing and to gather further information on the feasibility of certain alternatives suggested by City staff.

Because of certain court imposed deadlines, we respectfully requests that the hearing be continued no later than November 20, 2007. A representative for American Tower will be in attendance at the October 15, 2007 hearing to formally request the continuance of these two items.

Thank you for your consideration. If you should have any questions or need further information, please do not hesitate to contact me at (insert phone number).

Sincerely,

Suzanne K. Toller

Error! Reference source not found:

October 5, 2007

Page 2

cc: Mayor Jerry Sanders
Councilmember Kevin Faulconer
Councilmember Toni Atkins
Councilmember Tony Young
Councilmember Brian Maienschein
Councilmember Donna Frye
Councilmember Jim Madaffer
Councilmember Ben Hueso
Karen Lynch-Ashcraft

and eighteen (18) four-foot directional cellular antennas. A 484-square foot communications equipment building is located adjacent to the monopole support structure. Both structures are surrounded by a six-foot-high chain link security fence. American Tower is requesting the extension of the CUP and/or such other Development Permit (including but not limited to a Site Development Permit ("SDP") or a Planned Development Permit ("PDP")) as may be required in order that Lessee, Verizon Wireless, may continue to provide uninterrupted and seamless wireless service to its customers.

The original 20-year Coastal Development/Conditional Use Permit ("CDP/CUP") was issued on November 20, 1984, and the Facility has continued to exist without controversy since it was first approved. ATC has met with and has maintained contact with the City since May 2005 and expedited its own internal processes in order to be able to file and facilitate the processing of the application in a timely manner consistent with the requests of City Staff.

II. The Commission's Scope of Review is Limited

It should be noted that the Commission's ability to regulate WCFs is restricted by both state and federal law. Specifically, § 253(a) of the Telecommunications Act of 1996 ("Telecom Act") states the following:

"No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service."

47 U.S.C. 253(a) (2007). The federal courts, including the courts of the Ninth Circuit, have interpreted § 253(a) to strictly limit the authority of municipalities over the installation of WCFs. Specifically, federal courts within the Ninth Circuit have held that California municipalities are prohibited by § 253(a) from adopting and implementing wireless communications ordinances that allow for the exercise of unfettered discretion over decisions to approve, deny or condition permits for the placement of WCFs. *City of Auburn v. Qwest Corp.*, 260 F.3d 1160, 1175 (9th Cir. 2001) (holding that § 253 preemption of local authority is "virtually absolute"); *Sprint Telephony PCS, L.P. v. County of San Diego*, 2007 U.S. App. LEXIS 13811, *50-51 (9th Cir., June 13, 2007) (Denying en banc review and holding that County's ordinance was preempted because permitting structure and design requirements presented barriers to wireless telecommunications); *Quest Communications Inc. v. Berkeley*, 433 F.3d 1253, 1257-58 (9th Cir. 2006) (burdensome ordinance that gives municipality significant discretion to deny telecommunication companies the ability to provide services violates § 253).

A. Cities Do Not Have Authority to Regulate Visual Impact of WCFs

The Commission should be aware that the Ninth Circuit – the jurisdiction of which includes California - has stated that regulations requiring a facility to be appropriately "camouflaged" are **unlawful** pursuant to § 253(a) of the Telecom Act. *Sprint Telephony PCS, L.P. v. County of San Diego*, 2007 U.S. App. LEXIS 13811 (9th Cir., June 13, 2007). Significantly, the Ninth Circuit recently **denied** the County of San Diego's petition for *en banc*

review in this case. In *Sprint*, the court critiqued the County of San Diego's ordinance as follows:

"The WTO itself explicitly allows the decision maker to determine whether a facility is appropriately "camouflaged," "consistent with community character," and designed to have minimum "**visual impact**." ... We conclude that the WTO imposes a permitting structure and design requirements that present barriers to wireless telecommunications within the County, and is therefore preempted by § 253(a)." (emphasis added).

2007 U.S. App. LEXIS 13811, at 43-44. The City may not impose unreasonable permitting burdens on ATC. *Id.* City regulations that purport to regulate the "visual impact" of wireless facilities are unreasonable and run afoul of federal law.

B. The Hearing Officer's Findings Are Not Supported By Substantial Evidence; the Facility is an Appropriate Use and Complies with Regulations to the Maximum Extent Feasible

Even if the City could require ATC to remove and replace the existing Facility, such a decision must be supported by substantial evidence. Section 332(c)(7)(B)(iii) of the Telecom Act states the following: "[A]ny decision by a State or local government or instrumentality thereof to deny a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by **substantial evidence** contained in a written record" 47 U.S.C. § 332(c)(7)(B)(iii). For this reason, zoning boards cannot rely on conclusory or generalized concerns. *Ill. RSA No. 3 v. County of Peoria*, 963 F. Supp. 732, 745 (C.D. Ill. 1997) ("generalized concerns do not constitute substantial evidence [citation omitted]"). Dozens of cases have analyzed this restriction and there is no dispute that generalized concerns, speculation and conjecture do not constitute substantial evidence. *Prime Co Pers. Communs. v. City of Mequon*, 352 F.3d 1147, 1150 (7th Cir. 2003) ("It is not sufficient evidence, as the cases make clear by saying that "**generalized**" aesthetic concerns do not justify the denial of a permit"); *New Par v. City of Saginaw*, 301 F.3d 390, 399 (6th Cir. 2002) ("If, however, the concerns expressed by the community are objectively unreasonable, such as concerns based upon conjecture or speculation, then they lack probative value and will not amount to substantial evidence"). Furthermore, "in applying the substantial evidence standard, the court applies common sense and need not accept as substantial evidence impossible, incredible, unfeasible, or implausible testimony." *AT&T Wireless Servs. of Cal., LLC, v. City of Carlsbad*, 308 F. Supp. 2d 1148, 1159 (S.D. Cal. 2003) citing *Airtouch Cellular v. City of El Cajon*, 83 F. Supp. 2d 1158, 1164 (S.D. Cal. 2000) (internal quotations omitted).

The record in this case clearly indicates that ATC's Facility is an appropriate use and consistent with the surrounding environment. See Section III discussion below. This said, ATC has proposed to add landscaping to the Facility as a demonstration of good faith to further enhance the Facility. Landscape Plans are forthcoming. The evidence strongly supports the conclusion that the Facility meets all the requirements of the City's Land Development Code.

Section 332 of the Telecom Act sets additional limits on local zoning authority over the placement, construction and modification of wireless communications facilities. Those limits are as follows: (1) "The regulation of the placement, construction, and modification of personal

wireless service facilities by any State or local government or instrumentality thereof shall not unreasonably discriminate among providers of functionally equivalent services and shall not prohibit or have the effect of prohibiting the provision of personal wireless services" § 332(c)(7)(B)(i); (2) "A State or local government or instrumentality thereof shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request" § 332(c)(7)(B)(ii); (3) "Any decision by a State or local government or instrumentality thereof to deny a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record" § 332(c)(7)(B)(iii); and (4) "No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions" § 332(c)(7)(B)(iv).

Thus, the City may not unreasonably discriminate in any decision to deny a permit for a WCF. It also may not deny a permit for a WCF if that denial would constitute actual or effective prohibition of services. Where there is a "significant gap" in a provider's service and "the manner in which it proposes to fill the significant gap in service is the *least intrusive on the values that the denial sought to serve*, a local jurisdiction's denial would constitute effective prohibition. *MetroPCS, Inc. v. City & County of San Francisco*, 400 F.3d 715, 734 (9th Cir. 2005) (internal citations omitted.).

C. California Has Adopted a Clear State Policy Promoting the Deployment of Wireless Technology and Co-Location Facilities

The State of California has adopted a policy promoting the wide and efficient deployment of wireless technology. For example, Public Utilities Code § 709 provides:

The Legislature hereby finds and declares that the policies for telecommunications in California are as follows:

(a) To continue our universal service commitment by assuring the continued affordability and widespread availability of high-quality telecommunications services to all Californians.

(c) To encourage the development and deployment of new technologies and the equitable provision of services in a way that efficiently meets consumer need and encourages the ubiquitous availability of a wide choice of state-of-the-art services.

(d) To assist in bridging the "digital divide" by encouraging expanded access to state-of-the-art technologies for rural, inner-city, low-income, and disabled Californians.

(e) To promote economic growth, job creation, and the substantial social benefits that will result from the rapid implementation of advanced information and communications technologies by adequate long-term investment in the necessary infrastructure.

(f) To promote lower prices, broader consumer choice, and avoidance of anticompetitive conduct.

000345

(g) To remove the barriers to open and competitive markets and promote fair product and price competition in a way that encourages greater efficiency, lower prices, and more consumer choice.

...

In this case, the forced removal of the Facility would have a severe impact on the ability of customer-carriers to provide affordable and widely available wireless services in the affected areas. Costly visual mitigation measures will be born by the citizens of the City in the form of higher bills and consequently fewer individuals will be able to afford wireless services. This, in turn, will affect the state of emergency communications for the State of California. Both the federal and state governments are in the process of overhauling the broadcast-based Emergency Alert System ("EAS") to incorporate wireless devices. In October 2006, Congress passed the Warning, Alert, and Response Network Act. The Act calls for the development of a nationwide wireless alert platform that can be used to transmit geographically targeted emergency messages to the public. For its part, California has proposed to jump start the federal government's emergency initiative, announcing plans to develop and launch a statewide wireless alert system within 12 to 14 months.¹ For such services to function, the continued operation of wireless infrastructure (such as the Facility) is critical. The forced removal of the Facility will undermine these efforts and subject affected residents to substandard emergency services. Also see discussion below pertaining to finding number four for a PDP and/or SDP.

Further, California's newly adopted state co-location law, referred to as "SB 1627," establishes a clear state policy favoring wireless facilities that are potential co-location candidates. *See* Cal. Gov. Code § 65850.6(a) (stating a "collocation facility shall be a permitted use not subject to a city or county discretionary permit" provided the facility complies with are lawfully required conditions). The approval of the application currently before the Commission will conform to the spirit and purpose of SB 1627. Also see discussion below addressing finding number five for a PDP and/or SDP regarding co-location opportunities for the Facility.

III. The Facility Meets All the Requirements of the San Diego Land Development Code for Issuance of the Requested Permits

As demonstrated below, the Facility meets all of the City's requirements for approval of the requested permit as outlined in the City's Land Development Code and complies with the findings necessary for not only a Conditional Use Permit, but also either a Planned Development Permit or a Site Development Permit as demonstrated below.

A. Findings Required for a Conditional Use Permit

Contrary to staff's assertions, the City can make the findings necessary to approve the requested permit for this Facility at its present height, location, and configuration.

¹ Kapko, *California plans statewide wireless alert system*, RCRWireless News (May 21, 2007) p. 14.

Section 126.0305 of the Land Development Code sets forth four findings for issuance of a CUP, all of which can be made with respect to this project:

1. The proposed development will not adversely affect the applicable land use plan.

Staff correctly acknowledges that the Facility would not adversely affect the applicable land use plan. The Facility has existed on this site for over twenty (20) years without controversy and without creating any adverse impacts on the surrounding areas, land uses or residents. The location, size, design, and operating characteristics of this Facility are such that it does not create noise, traffic, emissions, fumes, smoke, odors, dust or other conditions that may be harmful, dangerous, objectionable, detrimental or incompatible with other permitted uses in the vicinity. Indeed, in most respects it is among the least impactful of all land uses, and is certainly at or below the level of impacts created by other public utility facilities. The following supports ATC's position that the Facility does not adversely affect the applicable land use plan.

- Area zoned MF-3000 (multiple-Family Residential). The Facility is not located in a zone that prohibits wireless telecommunications facilities
- The Facility has single family residential units on three sides and Highway 94 is immediately to the North.
- Utility facilities for electricity, natural gas, and telecommunications are located in adjacent properties.
- The equipment associated with the facility operates virtually noise-free.
- The equipment does not emit fumes, smoke, dust, or odors that could be considered objectionable.
- The communications facility is unmanned and requires only periodic maintenance.

2. The proposed development will not be detrimental to the public health, safety, and welfare.

The Facility has not created conditions or circumstances contrary to the public health, safety, and general welfare in that:

- The Facility operates in full compliance with the regulations and licensing requirements of the FCC, FAA, CPUC and other applicable federal, state and local regulations designed to address health and safety concerns.
- The Facility was professionally designed and constructed, and continues to be inspected at regular intervals to insure its continuing safety.
- The Facility has operated for many years without incident, controversy, or complaint.
- Given the benefits provided by the wireless systems served by the Facility as outlined below, the insignificant tradeoffs necessary to ensure the reliable availability of these benefits cannot be said to have created circumstances that are contrary to the public welfare.

3. The proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code;

As demonstrated below, the Facility complies with the applicable regulations of the Land Development Code.

Subsection (a) of § 141.0405 is merely a definitional provision that delineates the scope of the section's coverage and spells out the difference between minor telecommunication facilities, major telecommunication facilities, and satellite antennas. It contains no requirements.

Subsection (b) contains the "General Rules for Telecommunication Facilities." Subsection (b)(1) requires facilities to comply with Federal standards for radio frequency radiation. ATC has previously submitted evidence establishing that the Facility meets this requirement. Subsection (b)(2) relates to routine maintenance and inspection located on residentially zoned premises and ATC is committed to adhering to any reasonable requirements. Subsections (b)(3) and (4) relate to antennas and associated equipment located in the public right of way and thus are inapplicable to the Facility.

Section 141.0405(c) relates to temporary facilities and is also inapplicable.

Subsection (d) relates to facilities that are required to obtain encroachment authorization to locate on city-owned dedicated or designated parkland or open space areas and is inapplicable to this Facility.

The Facility meets the requirements of § 141.0405(e)(1) because it is partly concealed from public view and integrated into the architecture and surrounding environment through enhancements that complement the scale, texture, color, and style of the surrounding architecture and environment.

Subsection (e)(2) is an alternative to subsection (e)(1) that is inapplicable.

The Facility is in compliance with the provisions of § 141.0405. The Facility does not violate any of the prohibitions in subsection (f)(1) since it is not (A) on premises containing designated historical resources, (B) within viewsheds of designated and recommended State Scenic Highways and City Scenic Routes, (C) within ½ mile of another major telecommunication facility (and in any case it is partly concealed from public view and integrated into the architecture and surrounding environment through enhancements that complement the scale, texture, color and style of the surrounding architecture and environment as indicated above), or (D) within the Coastal Overlay Zone, on premises within a MHPA and/or containing steep hillsides with sensitive biological resources, or within public view corridors or view sheds identified in applicable land use plans.

The Facility also is in compliance with subsection (f)(2) in that it is designed to be minimally visible through the use of architecture, landscape architecture, and siting solutions. It has been partly concealed from public view and integrated into the surrounding environment. The alternative suggested by staff, namely a new structure that would enclose the facility, would, by definition, be larger and thus not "minimally visible."

Finally, as required by § 141.0405(f)(3), the Facility uses the smallest and least visually

intrusive antennas and components that meet the requirements of the Facility.

The only portion of §141.0405 that has not been addressed in the above discussion is subsection (g), which deals in its entirety with satellite antennas and is thus irrelevant.

Therefore, the Facility complies with the regulations in the Land Development Code *to the maximum extent feasible*. There is no basis for the Commission not to make this finding. The Facility already employs adequate screening, landscaping and other features that make it minimally visible and complements the scale, texture, color, and style of the surrounding architecture and environment. ATC has repeatedly expressed a willingness to provide additional screening and landscaping where feasible. Landscape Plans are forthcoming.

Furthermore, the Facility was originally permitted with a CDP/CUP in its current location and at its current height. ATC is proposing no modifications to the Facility that would alter the findings that supported the original permits.

Staff has mentioned that expirations were inserted into subsequent CDP/CUPs "to coincide with the anticipated changes in technology so that the facilities could be redesigned at that time." ATC does not concede that this assertion is true. Even if it were true, no evidence has been introduced of any changes in technology that obviate the need for the Facility, such as, the availability of smaller antennas that could meet the requirements of the sites..

Staff erroneously claims that the Facility "poses a significant visual impact to travelers along 30th Place and to the residential areas surrounding the facility." As discussed above, the City has no authority to base any part of its decision regarding this permit on the visual impact of the Facility. That said, the Facility is in compliance with subsection (f)(2) in that it is designed to be minimally visible through the use of architecture, landscape architecture, and siting solutions. The Facility is adjacent to a major transportation corridor. The alternative suggested by staff, namely a new structure that would enclose the facility would, by definition, be larger and thus not "minimally" visible.

This project involves no change to the familiar visual environment in this largely industrial and commercial area adjacent to major highways, including Highway 94. Given the complete absence of problems or complaints with the projects over the past twenty (20) years, it represents a solution to the City's need to provide wireless communication service and has proven to be effective in avoiding any significant visual or other negative impacts. To abandon such a proven solution, to be replaced with an unfamiliar and necessarily bulkier structure, which, given the setting, with which the existing structure currently integrates quite appropriately, would not be consistent with either the spirit or the letter of the City's Code. Staff's recommendation could actually have a much greater impact on the neighborhood.

Therefore, the Commission should find that the Facility complies, to the maximum extent feasible, with the applicable regulations of the Land Development Code for the above-mentioned reasons.

4. *The proposed use is appropriate at the proposed location.*

The proposed use is appropriate at the proposed location for the following reasons. First, the City has already determined that the Facility was appropriate at this location by granting the original CUP. Nothing has been entered into the record that suggests changes to the area now render the location inappropriate. In addition, the wireless signal coverage in this location is needed to provide service to the adjacent highways, thoroughfares, and surrounding neighborhoods. Unlike other land uses, which can be spatially determined through the General Plan or other land use plans, the location of wireless telecommunications facilities is based on technical requirements which include service area, geographical elevations, alignment with neighboring sites, customer demand components, and other key criteria that include, but are not limited to: accessibility, utility connections, liability and risk assessment, site acquisition, maintenance, and construction costs. Placement within the urban geography is dependent on these requirements. WCFs have been located adjacent to and within all major land use categories, including residential, commercial, industrial, open space, etc., proving to be not only appropriate but necessary in all such locations.

B. Findings Required for a Planned Development Permit

Even if the Facility does not comply, to the maximum extent feasible, with the applicable regulations of the Land Development Code, the project is still permitted under the Code with a Planned Development Permit. The purpose of such a permit, as stated in §126.0601 of the Land Development Code is to allow “applicants greater flexibility from the strict application of the regulations” and to “encourage imaginative and innovative planning.” Under §126.0602(b)(1), a “[d]evelopment that does not comply with all base zone regulations or all development regulations ...” may be requested with a PDP. The intent of the PDP regulations, according to §143.0401, is “to accommodate, to the greatest extent possible, an equitable balance of development types, intensities, styles, site constraints, project amenities, public improvements, and community and City benefits.” Thus, even if the findings for a CUP could not be made, the City must also consider the applicability, as requested by ATC, of a Planned Development Permit. The five findings for a PDP should also be made in the affirmative with respect to the Facility:

1. The proposed development will not adversely affect the applicable land use plan.

This is the identical finding as finding number one for a CUP, and ATC therefore incorporates by reference the discussion above with respect to such finding.

2. The proposed development will not be detrimental to the public health safety and welfare.

This is the identical finding as finding number two for a CUP, and ATC therefore incorporates by reference the discussion above with respect to such finding.

3. The proposed development will comply with the applicable regulations of the Land Development Code.

This is the identical finding as finding number three for a CUP, and ATC therefore incorporates by reference the discussion above with respect to such finding.

4. The proposed development, when considered as a whole, will be beneficial to the community.

The Facility has benefited, and will continue to benefit, the community in numerous ways including the following:

- It will continue to allow commuters, businesses, and residents within the coverage area wireless access to the rapidly expanding communication infrastructure and to voice and data transmission services not currently available.
- The existing Facility provides co-location possibilities, reducing the need for other wireless facilities in the area.
- Wireless communications systems supported by the Facility service a critical need in the event of public emergency, including traffic accidents and other freeway incidents. In a recent survey by the Pew Internet & American Life Project, of the 66% of American adults who have cell phones, nearly 74% of those cell phone owners say they have used their mobile phone in an emergency and gained valuable help.² The media has included many recent examples of the critical role wireless telephony has played in recovering kidnapping victims.
- Wireless systems are an economical alternative to wired networks. According to recent surveys, 11% of American adults rely solely on cell phones³ with an additional 23% who currently have a landline phone indicating they were very likely or somewhat likely to convert to being only cell phone users.⁴ Without the reliable wireless coverage provided by this Facility, in addition to the normal inconveniences incident to an absence of telephone service in any location, such residents would be unable to call for police, fire or ambulance services in the event of an emergency at home, nor would school officials be able to contact them in the event of emergencies affecting their children at school. Also, see discussion above in Section II C regarding the role of wireless in emergency services.

The Commission should find that the Facility, when considered as a whole, will be beneficial to the community. These startling statistics further demonstrate the benefit, if not the need, of the local residents and businesses having adequate and reliable cell phone service throughout the City.

5. Any proposed deviations pursuant to § 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.

² Pew Internet & American Life Project, "Pew Internet Project Data Memo" (April 2006)

³ Hill, Survey: 11% of callers use only cellphones, RCR Wireless News (June 8, 2007)

⁴ Pew Internet & American Life Project, "Pew Internet Project Data Memo" (April 2006)

- The Facility, at its current height, reduces the need for other wireless facilities in the area by providing the opportunity for co-location in conformance with State policy as discussed above.
- Allowing the Facility to continue to serve the community in its current configuration avoids expensive construction, the costs of which would have to be ultimately passed on to wireless subscribers making service less affordable and in some cases unaffordable, for those most in need of the cost savings wireless service provides. As explained above, this is contrary to the express State policies in favor of “assuring the continued affordability and widespread availability of high-quality telecommunications services to all Californians,” “encourage[ing] the development and deployment of new technologies and the equitable provision of services in a way that efficiently meets consumer need and encourages the ubiquitous availability of a wide choice of state-of-the-art services,” “bridging the “digital divide” by encouraging expanded access to state-of-the-art technologies for rural, inner-city, low-income, and disabled Californians,” and many of the other State policies outlined in Section 709 of the Public Utilities Code.⁵
- Moreover, reduction in the height of a Facility to the zone 30-foot limitation would seriously impact the quality and scope of coverage provided by ATC’s carrier customers from these sites. There is a necessary and logical interrelationship between each proposed site. Eliminating or relocating a single cell site can lead to gaps in the system and prohibit the carrier from providing service to customers in a defined coverage area. Further, the elimination or relocation of a cell site will most often have a “domino” effect on other cell site locations and necessitate significant design changes or modifications to the network. Staff has acknowledged that ATC facilities are part of the “backbone” of the wireless network in San Diego. The project therefore is more desirable in its present configuration than it would be if the City strictly enforced the development regulations that would limit the height of the Facility. Additionally, any reduction in height would severely limit, if not extinguish, any possibility of additional co-location facilities and therefore result in the need for additional poles or towers in the immediate vicinity. Attached is a report prepared by Hammett & Edison which details these impacts.

D. Findings Required for a Site Development Permit

1. *The proposed development will not adversely affect the applicable land use plan;*

This is the identical finding as finding number one for a CUP, and ATC therefore incorporates by reference the discussion above with respect to such finding.

2. *The proposed development will not be detrimental to the public health, safety, and welfare; and*

This is the identical finding as finding number two for a CUP, and ATC therefore incorporates by reference the discussion above with respect to such finding.

⁵ Pub. Util. Code § 709.

3. *The proposed development will comply with the applicable regulations of the Land Development Code.*

This is the identical finding as finding number three for a CUP, and ATC therefore incorporates by reference the discussion above with respect to such finding.

D. New Coastal Development Permits not Required

As acknowledged by staff and the Hearing Officer, new Coastal Development Permits pursuant to San Diego Mun. Code § 126.0704 are not required. The Facility is an existing structure, and ATC is proposing no modifications.

IV. Conclusion

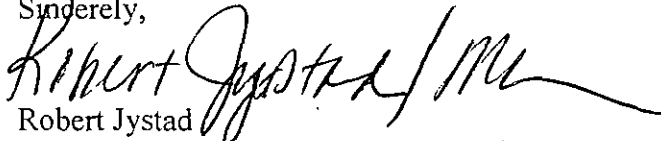
Accordingly, there is no lawful basis for the Planning Commission to deny the CUP for ATC's Facility. ATC respectfully requests that the Planning Commission approve the CUP.

ATC provides the information contained herein without waiving its rights under applicable federal and state laws. ATC does not concede that the City has the authority to deny or refuse to renew ATC's applications on the grounds that such findings cannot be made or do not support a grant of approval by the City. ATC offers the above information to facilitate the City's review of these applications, but in doing so reserves all rights and does not waive any right to any claim or defense, including federal preemption.

Moreover, the failure to include additional findings or make additional legal or technical arguments in support of these facilities shall not be construed as an admission and shall not be construed as a waiver of any findings and arguments. ATC hereby reserves the right to supplement this letter with additional evidence to be presented at or prior to the hearing in this appeal.

I can be reached at 310-209-8515 should you have any questions.

Sincerely,



Robert Jystad

Attorney for American Tower Corporation

cc: Christine, Fitzgerald, Chief Deputy City Attorney, City of San Diego
Elizabeth Hill, Esq., American Tower Corporation
Mr. James Kelly, American Tower Corporation
Mr. Douglas Kearney, American Tower Corporation

**American Tower Corporation • San Diego, California
Potential Impacts of Reduced Tower Height**

Statement of Hammett & Edison, Inc., Consulting Engineers

The firm of Hammett & Edison, Inc., Consulting Engineers, has been retained on behalf of American Tower Corporation to prepare an engineering analysis of the potential effects of reducing antenna structure heights from 60–140 feet to 35 feet.

Summary

Reductions in antenna structure height typically result in reductions in coverage and decreased opportunities for collocation of wireless base station facilities. The result of these factors is likely to be decreased service quality for subscribers in the short-term, and require construction of additional base station facilities in the longer term.

As an example, reduction of a 105-foot structure to 35 feet may result in reduction by half in coverage area and a significantly reduced ability to collocate wireless carriers. The number of additional sites required to offset these factors would vary, but could be significant.

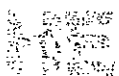
Structure Height Directly Affects Coverage Area

Radio signals transmitted from a base station (*i.e.*, a cell site) are not only subject to the same significant propagation-path losses that are encountered in other types of atmospheric propagation (*i.e.*, inverse-distance losses) but are also subject to the path-loss effects of terrain. While terrain losses are greatly affected by the general topography of an area, the simplest case to analyze is one of smooth terrain. The low subscriber antenna height contributes to this additional propagation-path loss by reducing the “radio horizon” within which it can communicate. The small distance to the radio horizon associated with a portable or mobile subscriber must be compensated for by a larger horizon distance for the base station, in order to allow communication over the same distance.

The maximum range for a mobile-radio propagation path depends upon the heights of the base and mobile antennas. Transmissions at cellular and PCS frequencies (850 and 1,900 MHz) are “line of sight,” meaning that they generally do not extend beyond the horizon. Since the height of the mobile station antenna, h_M , is usually fixed at 4–6 feet above ground, the maximum range is completely determined by the height of the base station antenna, h_B . In English units (miles and feet), the distance to the horizon for the base station antenna, d_B , is approximately:¹

$$d_B \approx \sqrt{2h_B} \quad (1)$$

¹ W.C.Y. Lee, Mobile Communications Engineering, (McGraw-Hill, 1997), p. 102.



American Tower Corporation • San Diego, California
Potential Impacts of Reduced Tower Height

The diagram below illustrates the base-mobile propagation scenario, where d_B and d_M are the distances to the radio horizon for the base and mobile antennas, respectively.

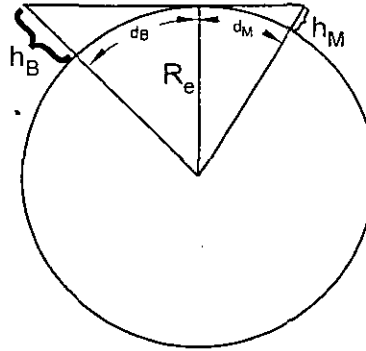


Figure 1. Geometry of propagation over curved, smooth Earth.

Thus, the maximum distance covered by a base station is proportional to the square root of the antenna height of the base station. Halving the antenna height reduces the coverage distance by 1.414 times. Since the coverage *area* is proportional to the square of this distance, halving the antenna height also halves the coverage area.

For example, if the height of a base station antenna is reduced from 105 feet to 35 feet, the maximum coverage area is reduced from 660 square miles to 220 square miles. Often, sites are designed to cover less than this maximum range, in order to provide useful signal level and achieve practical call volumes, but the reduction in coverage with antenna height remains similarly significant.

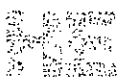
The Federal Communications Commission (FCC) offers an empirically-derived formula for determining the maximum distance served by a base station,² namely:

$$d = 2.531 \times h_B^{0.34} \times p^{0.17} \quad (2)$$

where d is the maximum coverage distance in kilometers, p is the effective radiated power of the base station in watts, and h_B is the effective height of the base station antenna in meters. Using this relation,³ the coverage distance resulting from antennas with heights of 105 and 35 feet (32.0 and 10.7 meters) would be 18 to 12.4 kilometers (11.2 to 7.7 miles), respectively. Assuming a circular coverage area about the base station, the coverage area would be reduced from 1,017 to 482 square kilometers (393 to 186 square miles), a reduction of slightly greater than one-half. Thus, the empirical FCC method provides results that are nearly identical to the theoretical.

² 47 CFR §22.911(a)(1)

³ The ERP is taken to be 100 watts per channel, a typical value for cell sites.



**American Tower Corporation • San Diego, California
Potential Impacts of Reduced Tower Height**

Structure Height Directly Affects the Ability to Collocate

Collocation by several wireless carriers on a particular structure is encouraged by the City of San Diego⁴ and by many other jurisdictions, because that minimizes the number of individual sites that must be developed to cover a geographic area. Wireless carriers, especially those using different technologies and frequencies, generally cannot share antennas, so each carrier installs its own antenna array, with some vertical spacing required between the arrays. Some minimum inter-antenna spacing is required in order to mitigate the potential for inter-system interference. Most carriers recommend a "bottom to top" separation of 15 feet,⁵ although lesser separation can sometimes be accommodated, based upon the results of a detailed interference analysis.

For typical four-foot panel antennas, the 15-foot "bottom to top" separation requirement means that the effective (center) height of each carrier's antennas must be separated by 19 feet. Assuming a structure having an overall height of 105 feet, the uppermost antenna array would be at an effective height of 103 feet, the next antenna array would be at an effective height of 84 feet, and the third array would be at 65 feet. Of course, the maximum coverage areas of the lower antenna arrays would be less than the upper one. In contrast, for a 35-foot structure, the effective height of the uppermost antennas would be at 33 feet, the next array would be at 14 feet, and collocation of a third wireless carrier would not be possible with the standard antenna separation.

The impact of reduced structure height on lower-placed carrier antennas is also disproportionate. For example, if the structure height is decreased from 105 to 35 feet, corresponding to effective antenna heights of 84 and 14 feet for the second carrier (the middle set of antennas on the 105-foot structure), the coverage area would decrease by a factor of six times (rather than a reduction of two times for the upper antenna array).

Decreased Structure Height Increases Number of Sites Required

Because of the reduction in maximum coverage distance, a reduction in structure height will likely create coverage gaps in a mature wireless system. Because the system is mature, the locations of the neighboring sites are fixed, and many of the gaps can be filled only by the addition of new sites. It is generally not practical or even possible to relocate the existing sites to "fill in" the coverage gaps, because those existing sites are "locked-in" by long-term leases. While some reconfiguration of existing sites can be expected to fill in some of the coverage gaps resulting from a lower structure height, mature wireless systems often already operate near peak call capacity. This means that, during peak usage

⁴ See San Diego Municipal Code, Section 141.0405(e)(2).

⁵ Mawrey, Robert, "Radio Frequency Interference and Antenna Sites," (Unisite: 1998)

000357

NOTE: The minutes for the Planning Commission meeting of June 28, 2007 were not available at the time of assembly of this exhibit pac. The vote is provided in the back -up materials for this item.